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COMMITTEE MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
SIERRA HEARING ROOM
SACRAMENTO, CALIFORNIA

MONDAY, MARCH 7, 2005

10:00 A.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chair

Ms. Rosario Marin

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Ms. Marie Carter, Chief Counsel

Mr. Gabe Aboushanab, Supervisor, LEA Program Assistance & Evaluation Section

Ms. Sharon Anderson, Branch Manager, LEA Support Services Branch

Mr. Mark de Bie, Branch Manager, Permitting & Inspection Branch

Mr. Chris Deidrick, Staff

Donnell Duclo, Executive Assistant

Mr. Steve Levine, Staff Counsel

Ms. Diane Ohiosumua, Staff

Ms. Bea Poroli, Staff

Mr. Scott Walker, Branch Manager, Remediation, Closure, & Technical Services Branch

Mr. Glenn Young, Supervisor, Closed, Illegal, and Abandoned Sites Section

Mr. Michael Wochnick, Supervisor, Closure & Technical Services Section

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APPEARANCES CONTINUED

ALSO PRESENT

Ms. Hanna Eade, Citizens to Save Long Valley

Mr. Bob Engle, Engle & Gray Regional Composting Facility

Mr. Ryan Fitzpatrick, FZ Cattle Co.

Ms. Nimat Grantham, City of Vallejo

Mr. Steve Johnson, Salinas Valley Solid Waste Authority

Mr. Jerry Mayberry, Elder Creek Transfer Station

Ms. Sonia Nasser, Orange County

Mr. Mike Schmaling, LEA, Santa Barbara County

Mr. Bob Swift, Sonoma County LEA

Mr. Roger Vanhorn, Monterey County LEA

Ms. Diane Wilson, Kern County LEA

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1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone.

3 Welcome to the March 7th meeting of the Permitting and
4 Enforcement Committee.

5 There are agendas on the back table there. So if
6 anyone would like to speak on an item, there are also
7 speaker slips in the back. We ask that you fill them out
8 and give them to Ms. Donnell Duclo here in the front, and
9 then you will have an opportunity to address the
10 Committee. And also I'd like to ask if you could please
11 turn off your cell phones and pagers so that we're not
12 interrupted.

13 And before I begin, before I call the roll, I
14 just want to read a statement here. As many of you know,
15 the Board currently has two vacancies, which has resulted
16 in this Committee only having two members instead of
17 three. State statute provides that Board Committees must
18 have at least three members. As a result, while we will
19 proceed with our meeting today and hear all of the items
20 before us, we will refrain from voting on the items and/or
21 recommending any of them for the Board's consent agenda.

22 Based on the discussion today and at our other
23 Committee meetings, our Executive Director will compile a
24 proposed consent agenda for the Board meeting for those
25 items that do not appear to require further discussion

1 before the full Board.

2 And with that, will you please call the roll?

3 SECRETARY DUCLO: Board Member Marin?

4 COMMITTEE MEMBER MARIN: Present.

5 SECRETARY DUCLO: Mulé?

6 CHAIRPERSON MULÉ: Here.

7 And do you have any ex partes?

8 COMMITTEE MEMBER MARIN: I do. I always forget

9 to ask for them.

10 I just talked very, very briefly to Chuck Helget,

11 Steve Johnson, and Mike Caprio.

12 CHAIRPERSON MULÉ: I, too, just briefly spoke to

13 Chuck Helget and Mike Caprio.

14 Howard, can we have your Deputy Director's

15 Report?

16 DEPUTY DIRECTOR LEVENSON: Yes, ma'am. Good

17 morning, Madam Chair and Member Marin. Happy to be here

18 today, instead of on a jury. I have a couple of items I'd

19 like to let you know about as part of my Deputy's Report.

20 First of all, our ongoing efforts at La Montaa.

21 As of March 4th, just last Friday, we had removed over 80

22 percent of the material with about 5,000 trucks being

23 loaded. So although things have slowed down a little bit

24 due to weather conditions, we are making progress. There

25 still haven't been any community complaints. All the air

1 monitoring results have been below regulatory limits. So
2 Scott and Wes and Jeff and all the contractors are doing a
3 great job.

4 We are working at this point on processed
5 material. Getting that to end markets or disposal sites
6 is a little slower, just depending on who can accept the
7 material. So we're looking at the end of March. And our
8 Public Affairs Office is looking to have something in
9 terms of a celebratory party probably late March, early
10 April.

11 COMMITTEE MEMBER MARIN: Late March is better
12 than beginning of April.

13 DEPUTY DIRECTOR LEVENSON: That's what we'll try
14 for.

15 I'd like to also talk a little bit about disaster
16 management. Since there was some discussion at the last
17 Board meeting about our role in emergency response, I
18 thought I'd take just a couple of minutes to describe some
19 of our activities related to disaster management.

20 In any major emergency, we work through CalEPA's
21 Emergency Response Management Committee, or ERMC, which
22 also is under the osmosis of the Governor's Office of
23 Emergency Services. Bernie Vlach is our representative on
24 that ERMC group.

25 In 2003, of course, we worked through OES to

1 provide field staff to district offices in response to the
2 Southern California wild fires. In June of 2004, we
3 participated in emergency response activities for the
4 Jones Tract flood incident, if you recall that in the
5 delta where there was a major levee break, again, in
6 concert with OES. In these situations, we typically act
7 as a liaison between the local and the state agencies
8 providing information about permitting, funding sources,
9 decisions about where waste and other materials can go.

10 In addition, we also participate in a variety of
11 disaster preparedness exercises and conferences. Given
12 potential threats to homeland security and the potential
13 for natural disease vectors to cause problems for
14 livestock and poultry, we view this as critical in
15 ensuring the Board is involved in early planning efforts
16 and we're up to date on the latest information available.

17 So, for example, in 2004, these exercises
18 included Operation Determine Promise, Golden Guardian in
19 August, which was a national exercise simulating
20 simultaneous terrorist attacks on both U.S. coasts.

21 We also attended a conference in October on the
22 science and policy of carcass disposal, should there be
23 large outbreaks of disease in poultry and livestock.

24 Again, in November, Operation Aphtosa in Tulare
25 County. This was a simulated outbreak of hoof and mouth

1 disease.

2 As a result of all these and other activities,
3 we've been able to continue our lead role in the
4 development of disaster debris policy for the state,
5 including the management of large volumes of burn ash and
6 animal carcasses or animal byproducts.

7 In December of 2004, we were instrumental in the
8 publication of an emergency animal disposal plan by
9 CalEPA.

10 Just recently, in February, Governor
11 Schwarzenegger issued a new Executive Order, S 205, which
12 directs the Office of Emergency Services to ensure that
13 the new national incident management system is
14 incorporated into the state's emergency management system.
15 This system is designed to provide a consistent nationwide
16 approach for federal, state, local, and tribal governments
17 to work together more effectively and efficiently to
18 prevent and deal with disasters. We'll be working
19 through the CalEPA ERM Committee on implementing that
20 Executive Order.

21 That's just a brief summary of some of the things
22 we're involved in and just wanted to let you know we do
23 have a major role in that whole emergency response
24 process. If you have questions or want more information,
25 we can certainly provide more.

1 Lastly, just to mention a couple of upcoming
2 activities and items, we have on March 29th here in the
3 building, we will have a workshop on fires in stored
4 materials at various solid waste management sites that
5 will be in conjunction with the State Fire Marshal. And
6 that is on our website calendar.

7 We have training starting on what we're calling
8 Permitting 101, two-day classes at five locations -- four
9 or five locations around the state starting this month.
10 And we also will have workshops in early April, one in
11 Northern California and one in Southern California with
12 linkages to the Central Valley, on what we're calling the
13 AB 1497 regulatory package, the significant change in
14 public hearings that AB 1497 directed us to work on.
15 Those will be workshops, and then we'll be coming back to
16 the Board with more information on that.

17 COMMITTEE MEMBER MARIN: If I may just ask a
18 question. Howard, the workshop, is it a training workshop
19 for fires that could take place in facilities? Is that a
20 training or is it a workshop? What is it?

21 DEPUTY DIRECTOR LEVENSON: It's more of an
22 initial discussion workshop. We have been documenting the
23 numerous fires around the state. And this is to bring in
24 various stakeholders, the fire martials, the fire
25 districts, operators, and LEAs to talk about where are

1 there gaps, what needs to be done, try to just get
2 everybody in one room to figure out what the next steps
3 are.

4 COMMITTEE MEMBER MARIN: I really like that. I
5 think that is very, very forward looking, or backward
6 looking, because this has been happening. And there are
7 things that we need to do to prevent them. I don't know.
8 I think the bigger minds that have dealt with this can sit
9 down and see what we can do to prevent that. I think that
10 is a very, very good idea. I really commend that.

11 DEPUTY DIRECTOR LEVENSON: Thank you. I have to
12 thank Dennis Corcoran and Mindy Fox and Sharon Anderson
13 for spearheading that. And we've been working on that
14 through CCDEH and EAC as well. So there are a lot of
15 questions, and we'll be discussing that and seeing what
16 people think are the best solutions for preventing fires,
17 and then if a fire does break out, how to best manage it.

18 COMMITTEE MEMBER MARIN: This will be at all
19 kinds of facilities?

20 DEPUTY DIRECTOR LEVENSON: Correct.

21 COMMITTEE MEMBER MARIN: Perfect. Perfect. Let
22 me know, because I'm very interested in attending. Okay.

23 DEPUTY DIRECTOR LEVENSON: We'll get you that
24 information this afternoon.

25 The last thing I want to mention is just that the

1 April agenda has a number of fairly heavy policy-related
2 items on it. Probably will have the RD&D regs. We are
3 having to coordinate that with the State Water Board. And
4 Scott is working with them to make sure that we're
5 synchronized in terms of bringing things before our Board.
6 And the State Water Board is doing simultaneous
7 activities. Tentatively, that will be in April.

8 We will have an item on the broad training issue,
9 certification and training of LEAs and operators for
10 discussion, just to get some initial input from you.

11 We think we will have -- March 14th is the
12 deadline for submittal of loan applications for our
13 Landfill Closure Loan Program. We may have an item on
14 that. We know we'll have some applications. Either in
15 April, or otherwise we'll bump it to June. We're going to
16 try to minimize some of our May items due to the
17 conference down in Anaheim.

18 We also are scheduled to have a discussion of the
19 conversion technology regulations and whether to continue
20 moving on that path or temporarily suspend them. Of
21 course, we'll have permits.

22 So that's the end of my report. If you have any
23 questions, be happy to give you more detail.

24 CHAIRPERSON MULÉ: Howard, thank you very much.
25 And I do appreciate your update on what staff is doing as

1 far as disaster response and debris clean up. It's much
2 more extensive than we had originally thought. So it
3 sounds like you're well into it and you've got quite a bit
4 of experience. And, again, we appreciate that update.

5 Let's get started then with our next agenda item,
6 Howard.

7 DEPUTY DIRECTOR LEVENSON: Item B, Committee Item
8 B, Item 23 for the Board, is Consideration of Grant
9 Agreement Time Extensions for the Solid Waste Disposal and
10 Codisposal Site Cleanup Program for Merced County, Orange
11 County, and the City of Vallejo. Scott Walker will be
12 making that presentation.

13 BRANCH MANAGER WALKER: Scott Walker, Permitting
14 and Enforcement Division.

15 This item considers approval of time extensions
16 for three Solid Waste Cleanup Program grant agreements
17 which expire at the end of April. And to date, we've had
18 47 grants awarded, about approximately \$21 million. We
19 have 16 active and about \$7 million currently active.

20 A brief summary of the extension requests in this
21 item is as follows. The first request is from the Merced
22 County Solid Waste Local Enforcement Agency. The Board
23 approved a grant in May of 2003 for cleanup of the
24 Birdland illegal disposal site, which is located in an
25 environmentally sensitive area of Los Banos state wildlife

1 area. The County has requested an extension to the end of
2 this year to address delays with their contractor in
3 completing the project. They are, based on staff review,
4 on track now to complete this.

5 And the second extension request is by the County
6 of Orange for their Prima Deshecha trash removal project
7 approved by the Board last June for a matching grant.
8 This project will remove solid waste and leachate from
9 stormwater that enters Poche Beach through construction of
10 trash netting and treatment system. Poche Beach is a
11 public beach owned by the County. It's had some
12 significant problems with bacteria and trash accumulation
13 at the site.

14 The project is delayed because of some higher
15 costs in the final estimates and also the need for
16 additional funding. The County has conveyed they're back
17 on track with the funding assistance with the City of San
18 Clemente. And so they have requested an extension to
19 March 30th of 2007.

20 The third and final extension request in this
21 item is the City of Vallejo for their Illegal Disposal
22 Site Cleanup Grant approved by the Board in May of 2003.
23 This grant supports the City in their innovative cleanup
24 and prevention program for up to 31 public right-of-way
25 illegal dumping hot spots in the city. The City's

1 requesting an extension to April 30th, 2006, because of
2 delays in surveys, some staffing reductions. They also
3 had some unexpected high bids and some difficulties with
4 dealing with the homeless population for the largest site.
5 But, again, we reviewed this and concur with their revised
6 schedule and believe the project is back on track and are
7 comfortable with it.

8 In conclusion, staff has completed review of
9 these requests and recommends the Board adopt Resolution
10 2005-56 to approve the grant time extensions.

11 CHAIRPERSON MULÉ: Okay. Thank you, Scott.

12 Do you have any questions?

13 COMMITTEE MEMBER MARIN: The three different
14 projects, have they started them? Or is it off and on,
15 off and on? I know in some of them there's 35 projects or
16 something like that. Are they doing 17 so far and they
17 still have 18 to go? Can you tell me? I mean, they've
18 already started; right?

19 BRANCH MANAGER WALKER: Yes. Each project has
20 started. And I know we have two of the applicants, two of
21 the projects --

22 COMMITTEE MEMBER MARIN: I'm not opposed to it.
23 I just want to know there's work already taking place.

24 BRANCH MANAGER WALKER: They have started. Each
25 one has submitted invoicing for at least various portions

1 of the project. And so they have actually started the
2 project. They just need to complete them, and they need a
3 revised schedule.

4 COMMITTEE MEMBER MARIN: Okay. I have no problem
5 with that.

6 CHAIRPERSON MULÉ: Okay. Thank you, Scott.

7 I guess we're just going to go onto the next
8 item, Howard.

9 DEPUTY DIRECTOR LEVENSON: Just want to check to
10 see if any of the project proponents wanted to say
11 anything.

12 CHAIRPERSON MULÉ: Excuse me. We do have two
13 speakers on this item. The first speaker is Nimat
14 Grantham, City of Vallejo.

15 MS. GRANTHAM: Good morning. Thank you very much
16 for the opportunity to support our case. I just want to
17 let you know we're very committed to the grant. We're
18 very committed, despite the delays, to complete the grant
19 and all the work in a timely manner and to complete the
20 grant objectives. And we thank you so much for
21 considering us for the additional time.

22 We have nothing to add to the report. If you
23 have any questions, I'm here to answer them.

24 CHAIRPERSON MULÉ: Thank you.

25 Our next speaker is Sonia Nasser of Orange

1 County.

2 MS. NASSER: Good morning, Board. And I just
3 want to approach the Board and let you know that we have
4 started the project. Our seed money was from a Clean
5 Beaches Initiative Grant. And later on, when we realized
6 that this would take a great deal of funding, we also
7 approached the Waste Board. It's a 4,000-acre watershed
8 with a major landfill at the head waters of the watershed.
9 So everyone thought the landfill was contributing to the
10 leachate and trash debris problem at the beach.

11 As it turns out, it's other sources. There's
12 50 percent residential and the golf course that are
13 working with the City of San Clemente to figure out how to
14 eliminate the grass clippings and bacteria growing in
15 those grass clippings from reaching the beach and to get
16 that unposted.

17 The City of San Clemente has submitted a letter
18 of support. And they also very aggressively have banned
19 smoking at their beaches and their pier and also adopted
20 an ordinance to ban any Styrofoam use in their city
21 facilities. And so it's a pretty aggressive effort by the
22 City of San Clemente.

23 And the County of Orange has also initiated a
24 Trash and Debris Task Force for all of Orange County to
25 blend our water quality efforts with our recycling

1 efforts. So that's just what we wanted to report today.

2 COMMITTEE MEMBER MARIN: Well, I only have a
3 question regarding the grass clippings. What is the golf
4 course doing about that?

5 MS. NASSER: We initially thought it was the golf
6 course, but the City of Clemente has a pretty aggressive
7 water quality enforcement program. And it turns out that
8 it's not the golf course, because it's the landscapers.
9 There's actually burlap bags that have been found.
10 They've initiated talking to anyone that uses a major
11 landscaping company in that watershed. And they also
12 partnered with the Surfrider Foundation -- they have a
13 chapter in San Clemente -- to go door to door to residents
14 advising them, whoever you hire to do your landscaping,
15 make sure that they take it with them and not dump it into
16 the channel. The channel is completely 100 percent
17 concrete lined. It's very easy to flush that stuff down
18 to the beach.

19 COMMITTEE MEMBER MARIN: Congratulations. Keep
20 it up.

21 CHAIRPERSON MULÉ: Sonia, I have a quick
22 question. Do you have a local Keep America Beautiful
23 affiliate in Orange County or in that area?

24 MS. NASSER: Yes, we do. And today we do have a
25 Trash and Debris Task Force meeting that's happening in

1 Orange County. And the Executive Director from Keep
2 America Beautiful is addressing the Task Force.

3 And one new thing that came out of establishing
4 this Task Force is there was a lot of antagonism between
5 the City adopting this ban of Styrofoam and the plastics
6 industry. But as part of the coalition, what has happened
7 is there's a new program, the Plastic Bag Recycle at Home
8 Program, that is just starting in San Juan Capistrano next
9 week. And San Juan Capistrano and San Clemente are
10 probably the leading cities in Orange County. We
11 anticipate San Clemente will also start that plastic bag
12 and dry cleaning recycling at home pretty soon.

13 CHAIRPERSON MULÉ: Great. Well, it sounds like
14 you're trying to do all the right things. Thanks for your
15 efforts.

16 COMMITTEE MEMBER MARIN: They're keeping Orange
17 County beautiful.

18 CHAIRPERSON MULÉ: Thank you.

19 DEPUTY DIRECTOR LEVENSON: Just for the record, I
20 do want to clarify or make explicit that that item is only
21 for time extensions and there are no fiscal
22 considerations.

23 CHAIRPERSON MULÉ: Thank you, Howard.

24 DEPUTY DIRECTOR LEVENSON: Item C, Board Item 24,
25 is Consideration of Revised Full Solid Waste Facilities

1 Permit for the Shafter-Wasco Sanitary Landfill in Kern
2 County. And Chris Deidrick will be making this
3 presentation.

4 MR. DEIDRICK: Good morning.

5 The Shafter-Wasco Sanitary Landfill was last
6 issued a permit on February 18th, 2003. The facility is
7 utilized by both franchise and public haulers and has a
8 peak tonnage of 888 tons per day. The facility is owned
9 and operated by the Kern County Waste Management
10 Department.

11 Before I commence with the proposed permit
12 changes and staff recommendation, I'd like to point out
13 three corrections that need to be made to the agenda item.

14 On page 1, under item history, Tehachapi Sanitary
15 Landfill should be Shafter-Wasco Sanitary Landfill.

16 Also, under item history on page 1, for the 2001
17 compliance history, there should be 11 state minimum
18 standard violations instead of 12, and 10 permit
19 violations instead of 11.

20 And on page 2 under background, Waste Management,
21 Inc., should be replaced with Mitchell Brown Engineering
22 as the contract operator.

23 These changes will be made to the agenda item
24 prior to the Board meeting.

25 COMMITTEE MEMBER MARIN: They didn't change

1 haulers; right?

2 MR. DEIDRICK: No. Kern County Waste Management
3 employs a contract operator to maintain the day to day
4 operations of the landfill. I just made a mistake.

5 Now for the proposed project. The operator's
6 requesting the following four changes to the current solid
7 waste facilities permit.

8 One, include reference in the permit to the
9 composting activities which were initially approved by the
10 Local Enforcement Agency in December of 2003 as a reported
11 disposal site information amendment.

12 Two, increase the permitted tonnage from 888 tons
13 to 1500 tons per day, and allow a peak of 2,250 tons per
14 day for up to 15 days per quarter.

15 Three, increase the permitted traffic volume from
16 388 to 788 vehicles per day.

17 And, four, update the language in the
18 prohibitions and enforcement agency conditions of the
19 permit.

20 In conclusion, Board staff have determined that
21 all the requirements for the proposed permit have been
22 fulfilled. Board staff recommends that the Board adopt
23 Board Resolution Number 2005-57 concurring with the
24 issuance of Solid Waste Facility Permit 15-AA-0057.

25 Here today to answer any questions you might have

1 representing the Local Enforcement Agency is Diane Wilson.
2 And representing the operator is Doug Landon, who's the
3 operation manager, and Gabriele Kidwell, who is an
4 engineer of the Kern County Waste Management Department.

5 This concludes my presentation.

6 CHAIRPERSON MULÉ: Chair Marin, do you have any
7 questions?

8 COMMITTEE MEMBER MARIN: No. I want to hear from
9 them.

10 CHAIRPERSON MULÉ: Does anybody -- do we have any
11 speakers? No speakers on this issue.

12 COMMITTEE MEMBER MARIN: Then I have some
13 questions, because -- and maybe not necessarily regarding
14 this particular site, but rather when you look at the
15 compilation of all of the different state minimum
16 standards and the permit violations, when you add them up
17 for the last four or five years, it seems like a very
18 significant number, as opposed to other facilities that
19 have come before us under this particular Committee. And
20 when you look at the total number, it seems like this
21 number is pretty significant. Maybe in one year they only
22 have ten. But, overall, you're talking about 60
23 violations or probably more than that, if I counted the
24 math really fast.

25 I know that in other permits the Board was not

1 very happy when you combine the total amount of
2 violations. And so I appreciate the fact that so far this
3 month, or January, they didn't have any violations.
4 That's really good. That's what we want. But I'm
5 wondering if there is an answer for that and --

6 DEPUTY DIRECTOR LEVENSON: Member Marin, you're
7 certainly correct. And certainly in Kern County we have
8 seen a number of facilities coming through the last few
9 months where this issue has arisen and we've had some
10 discussions with the LEA. Fortunately, on this particular
11 one, for the entire year of 2004, there was only one
12 violation. So performance does seem to be improving.

13 But I think to respond to your question more
14 directly, I'd like to see if the LEA would come up.

15 COMMITTEE MEMBER MARIN: Is anybody from the LEA
16 here?

17 MR. DEIDRICK: Yes. Diane Wilson is here today.

18 MS. WILSON: Good morning. I'm Diane Wilson with
19 the Kern County LEA.

20 We have been working with the Waste Management
21 Department to minimize a number of state minimum standards
22 and violations. And we realize that in past years there
23 have been some issues. But we have been trying to resolve
24 those issues, and some of those issues were regarding the
25 solid waste facilities permit. And because of that, the

1 operator applied for a solid waste facilities permit. And
2 we hope that would resolve any of our state minimum
3 standard violations.

4 COMMITTEE MEMBER MARIN: Ms. Wilson, thank you so
5 very much for coming. I do appreciate that.

6 I do appreciate the fact over the last year and
7 certainly until now, although maybe we'll go tomorrow and
8 there will be a couple of violations, but I appreciate the
9 trend going to almost zero. I appreciate that and the
10 hard work. But you have to understand when you look at
11 the prior four years, it was very significant.

12 If we get your commitment that you will continue
13 to strive for that excellent record that so far you had in
14 the last year, I have no problem granting that. But I
15 want you to know that we're looking at this, not just for
16 one-year performance, but it's going to be now the trend.
17 So I appreciate what you're doing, and I have no problem.
18 I commend you for reversing that. But it was very
19 troubling to see the significant number of violations.

20 MS. WILSON: I agree. It's something that I know
21 the Waste Management Department has worked on, altering
22 how they inspect their own landfills. And we also have
23 changed our practice on how we will be taking care of
24 enforcement actions and not let things lag on and lag on
25 and lag on.

1 CHAIRPERSON MULÉ: Thank you, Diane. Appreciate
2 that.

3 No other speakers. No other questions, Chair
4 Marin?

5 COMMITTEE MEMBER MARIN: No.

6 CHAIRPERSON MULÉ: Next item, Howard.

7 DEPUTY DIRECTOR LEVENSON: The next two items are
8 both from Santa Barbara County. Item 25, or Number D for
9 the Committee, is Consideration of a New Full Solid Waste
10 Facilities Permit for the Engel & Gray Regional Composting
11 facility in Santa Barbara County. Diane Ohiosumua will
12 present that item.

13 MS. OHIOSUMUA: I'll be briefing you on Agenda
14 Item Number 25. The proposed changes will allow for the
15 revision of the permit references from 2,000 cubic yards
16 per day to 52,200 tons per quarter; specify the traffic
17 volume to be an average of 75 vehicles per day; include
18 the feedstock, composting, and finished products into the
19 capacity limit.

20 The LEA has certified that the application
21 package is complete and correct and the RFI information
22 meets the requirement of the California Code of
23 Regulations. And they have also determined that CEQA has
24 been complied with.

25 As indicated on page 25-3 of the agenda item, at

1 the time this item was prepared, Board staff had
2 determined all but one of the requirements for the
3 proposed permit. Now Board staff has made all of the
4 required findings, including the finding that the facility
5 is in compliance with the state minimum standards.

6 Board staff recommends that the Board adopt Solid
7 Waste Facility Permit Decision Number 2005-58, concurring
8 with the issuance of Solid Waste Facility Number
9 42-AA-0053.

10 Representatives from the Santa Barbara County LEA
11 and the operator are here to answer your questions. That
12 concludes staff's presentation.

13 CHAIRPERSON MULÉ: Thank you.

14 Are there any questions? Any speakers? Any
15 speakers on this item?

16 Any questions, Chair Marin?

17 COMMITTEE MEMBER MARIN: I want them to come up,
18 because I want to congratulate them. Come on. It's
19 amazing. Over the last four or five years, there's been
20 absolutely no violations, no state minimum standards
21 violations. So whoever is doing a great job, I just want
22 you to know that we appreciate that. Your name?

23 MR. SCHMALING: Mark Schmaling. I'm the Local
24 Enforcement Agency there. I'm known as a pit bull, by the
25 way.

1 COMMITTEE MEMBER MARIN: Well, congratulations.

2 You're a good enforcer. How's that?

3 MR. ENGEL: I'm Bob Engel with Engel & Gray

4 Regional Composting Facility. We've been undergoing

5 monthly inspections since 1995. And the County actually

6 helps us to make sure that we have no violations. And so

7 we're really happy with the success we've had, and

8 continue to recycle the organics.

9 COMMITTEE MEMBER MARIN: Thank you for the work.

10 CHAIRPERSON MULÉ: Bob, I do have a question.

11 What markets have you found for your products?

12 MR. ENGEL: Well, I think markets for organics is

13 one of the biggest problems that we face in the compost

14 industry. I'm real active in the United States Composting

15 Council and also the Association of Compost Producers in

16 California. As a matter of fact, I met you at the annual

17 meeting a few months ago.

18 Building markets for organics is probably the

19 biggest stride, because when a facility like ours comes on

20 board, we've gone into the agricultural markets, and

21 that's a large volume. But where I think we really have

22 to go in organics marketing is getting the homeowners to

23 take the grass clippings out of the streams and beds,

24 recycle them, and put them back on.

25 I'm working with ACP now to come up with a

1 program to go -- hopefully that we can go in Southern
2 California and do top it, which if every homeowner in
3 Southern California put a top dressing of compost on their
4 lawn once a year, we would see increased water retention,
5 increased fertilization from the compost. The benefits
6 would just be fantastic. And we would create a large
7 demand for it.

8 So that's kind of one way where I'm heading
9 there. We have Compost Awareness Week coming up in
10 May 1st and 9th, and we're hoping to launch our marketing
11 program at that time.

12 COMMITTEE MEMBER MARIN: Don't move.

13 Mark, do we have -- do you know if we have a
14 program with our marketing people that facilitates, helps
15 this particular effort of Composting Week, whatever it is
16 that he's talking about?

17 EXECUTIVE DIRECTOR LEARY: As you know, Madam
18 Chair, we have a pretty significant number of staff and
19 resources devoted to furthering the organics marketplace.
20 But I don't know that we've particularly engaged in this
21 Compost Awareness Week. And I appreciate Mr. Engel
22 bringing it to our attention so we can focus on that and
23 try to be a partnership.

24 COMMITTEE MEMBER MARIN: When is that week?

25 MR. ENGEL: It's the first week in May this year,

1 May 1st through the 7th this year. And it's International
2 Compost Week with the UK, and the Waste Board has been
3 supportive of it in the past. I just think we need to
4 broaden it and bring it up, because one proclamation
5 doesn't make it.

6 COMMITTEE MEMBER MARIN: No. I'm thinking some
7 PSAs, some radio spots, some editorials. We have an
8 outstanding PIO, and I'm sure he's going to run with this
9 one. I really think we need to do something with that.
10 And maybe Patty can help as well. Thank you. And thank
11 you very much.

12 Now I have a question for my staff regarding
13 cubic yards per day versus tonnage per month. I'm really
14 good at math, but don't do this to me, because I was doing
15 my calculations what this means.

16 DEPUTY DIRECTOR LEVENSON: It's always tough to
17 go from cubic yards to tons and vice versa, because it
18 depends on compaction rates and densities. There is
19 actually no change in the operation. It's really in
20 response to the change in our regulations last year where
21 this facility had a standardized permit. Now it qualifies
22 for a full permit and needs to report its materials in a
23 different manner. So there's no substantial change in the
24 operation.

25 COMMITTEE MEMBER MARIN: You made me do all that

1 work, mathematic formulas.

2 DEPUTY DIRECTOR LEVENSON: Just test you out.

3 COMMITTEE MEMBER MARIN: Thank you so very much.

4 And we'll help on the Composting Week.

5 CHAIRPERSON MULÉ: I just want to thank you for
6 all your work, and I would be interested in hearing more
7 about your agricultural markets. I am working closely
8 with our organics staff to develop a plan for further
9 outreach. And one of the key organizations that I felt we
10 need to be working with is ACP. And so I know that they
11 are developing that plan, and we will be broadening that
12 partnership with you, you and that group as well, because
13 that is a key focus area for us as a Board. So thank you
14 for your good work.

15 DEPUTY DIRECTOR LEVENSON: I think the Board
16 should also know that ACP has kind of rejuvenated in the
17 last year, and it's really encouraging to see them in this
18 role.

19 Before we go to the next item, I also want to
20 point out that the pit bull, Mike Schmaling, pit dog,
21 whatever he said, he is leaving the LEA office. I'm not
22 exactly sure when, but very soon, to go on to other
23 functions. And I just want to thank Mike for all his work
24 over the years. He's been a great LEA in terms of the
25 functions they need to perform. But he's also served on

1 statewide committees, including EAC, and has really helped
2 out. So thanks, Mike.

3 COMMITTEE MEMBER MARIN: You can't go anywhere.
4 What are we going to do without you? I hope everybody
5 continues to comply, otherwise we're going to have to
6 bring you back. Thank you. Congratulations, wherever
7 you're going.

8 DEPUTY DIRECTOR LEVENSON: On to Item D. No.
9 Item E, Item 26 for the Board, Consideration of Revised
10 Full Solid Waste Facility Permit for the City of
11 Lompoc-Sanitary Landfill in Santa Barbara County. And
12 Diane will also give that item's presentation.

13 MS. OHIOSUMUA: The proposed permit will allow
14 for five changes.

15 The first change will be the change of the
16 owner/operator's name.

17 The second change will be a change in how the
18 traffic volume is referenced from 202 vehicles per day to
19 6,000 vehicles per month.

20 Number three, remove the reference to water
21 treatment sludge and commingled recyclables from the
22 permit.

23 Item four, change the public hours of operation
24 from 10:30 a.m. -- I'm sorry -- change the public hours of
25 operation from 10:30 a.m. through 3:45 p.m. to 10:00 a.m.

1 through 3:45 p.m., and add the following holidays to the
2 list of days the facility will be closed: Martin Luther
3 King, Jr's Day, President's Day, Memorial Day, July 4th,
4 and Labor Day.

5 Number five, add the conditions to the permit
6 that address special or unusual occurrences at the
7 landfill and the LEA's right to suspend, revoke, or revise
8 the operations and/or their permit when deemed necessary
9 to protect public health, safety, and the environment;
10 remove permit conditions that are duplicate to
11 requirements found in statute or regulations.

12 As indicated on page 26-3 of the agenda item, at
13 the time this item was prepared, Board staff had
14 determined all but one of the requirements for the
15 proposed permit. Now Board staff have made all of the
16 required findings, including the finding that the facility
17 is in compliance with the state minimum standards.

18 Board staff recommends that the Board adopt Solid
19 Waste Facility Permit Decision Number 2005-59, concurring
20 with the issuance of Solid Waste Facility Number
21 42-AA-0017.

22 Representatives from the Santa Barbara County LEA
23 and the operator are here to answer your questions.

24 That concludes staff's presentation.

25 CHAIRPERSON MULÉ: Thank you very much.

1 Do we have any speakers? No speakers.

2 Do we have any questions, Chair Marin?

3 COMMITTEE MEMBER MARIN: No.

4 CHAIRPERSON MULÉ: I have no questions either --

5 COMMITTEE MEMBER MARIN: The number of
6 violations, previously, I think was one, if I'm reading it
7 correctly.

8 DEPUTY DIRECTOR LEVENSON: One back in 2001.

9 COMMITTEE MEMBER MARIN: So I have no problems
10 with it.

11 CHAIRPERSON MULÉ: Okay. Thank you.

12 All right, Howard. I guess we can go on to
13 Agenda Item F.

14 DEPUTY DIRECTOR LEVENSON: Board Item 27. This
15 is Consideration of Revised Full Solid Waste Facilities
16 Permit for the Elder Creek Transfer Station in Sacramento
17 County. And Bea Poroli will give that item.

18 MS. POROLI: Good morning.

19 The facility is owned and operated by Allied
20 Waste Industries. The proposed permit is to allow an
21 increase in the maximum daily tonnage. As indicated on
22 page 27-3 of the agenda item, Board staff determined that
23 all the requirements have been met.

24 In conclusion, staff recommends that the Board
25 adopt Solid Waste Facility Permit Decision 2005-60,

1 concurring in the issuance of the Solid Waste Facility

2 Permit Number 34-AA-0033.

3 Also, Sheryl Hawkins, the LEA, and Mr. Bobby

4 Boucher, the operator, are present to answer any questions

5 you may have.

6 CHAIRPERSON MULÉ: Any questions? We do have

7 Jerry Mayberry that is here. He's available to answer any

8 questions. But it seems we don't have any.

9 Jerry, do you want to come up and say a few

10 words?

11 MR. MAYBERRY: Thank you. I'd be happy to answer

12 any questions. I just want to thank the Board for

13 reviewing our application.

14 COMMITTEE MEMBER MARIN: Thank you. And

15 congratulations. You also have very, very few -- on a

16 trend basis, very, very few or zero.

17 MR. MAYBERRY: Thank you. We try hard.

18 CHAIRPERSON MULÉ: Keep up the good work. Thank

19 you.

20 With that, I guess we can go to Agenda Item F.

21 DEPUTY DIRECTOR LEVENSON: G. Item G, Board Item

22 28, Consideration of a Revised Full Solid Waste Facilities

23 Permit for the Crazy Horse Sanitary Landfill in Monterey

24 County. Bea will be giving that presentation and will be

25 referencing a letter that was addressed to Board members,

1 and I believe you received Friday afternoon, from Kenneth
2 Ehrlich representing some of the citizens in that area
3 with comments on this particular item.

4 MS. POROLI: Before I begin with the proposed
5 changes, I would like to make a verbal correction to the
6 agenda item. And we will be revising the agenda item
7 accordingly. On page 2 under current permitted hours,
8 staff understood there was to be changes in the hours of
9 operation. However, we now understand the only change is
10 that the franchise haulers will be able to access the
11 landfill on public holidays.

12 The facility is owned and operated by the Salinas
13 Valley Solid Waste Authority. The proposed permit is to
14 allow the following: Increase the elevation; change the
15 maximum tonnage; change the estimated closure year; change
16 the remaining disposal capacity; and allow the franchise
17 haulers access to the landfill on public holidays.

18 As indicated on page 28-36 the agenda item, Board
19 staff have determined that all the required findings have
20 been met.

21 Staff received a copy of a letter dated
22 March 3rd, 2005, from Mr. Kenneth Ehrlich. The letter
23 raised issues related to permit compliance. Staff
24 reviewed the letter and found no issues that would change
25 staff's recommendation at this time.

1 The LEA is available to address any questions you
2 may have regarding issues raised in the letter.

3 In conclusion, staff recommend that the Board
4 adopt Solid Waste Facility Permit Decision Number 2005-61,
5 concurring in the issuance of Solid Waste Facility Number
6 27-AA-007.

7 Mr. Roger Vanhorn, the LEA, and Mr. Steve Jones,
8 representing the operator, are present to answer any
9 questions you may have.

10 CHAIRPERSON MULÉ: Okay. We do have two
11 speakers. And so I'm going to ask that they come up and
12 speak. First is Ryan Fitzpatrick.

13 MS. EADE: I'm going to go first. My name is
14 Hanna Eade. I'd like to thank you for the opportunity to
15 speak today. I'm here on behalf of the Citizens to Save
16 Long Valley to ask you to reconsider the Salinas Valley
17 Solid Waste Authority's request.

18 The Salinas Valley Solid Waste Authority has been
19 deliberatively going over their capacity limits due to a
20 contract which they signed to take out-of-county waste
21 from south Santa Clara County, which the Authority signed
22 prior to filing for this tonnage increase. The Salinas
23 Valley Solid Waste Authority has shown a blatant disregard
24 for the regulations governing oversight. And even this
25 proposed permit was late in filing.

1 The Salinas Valley Solid Waste Authority has been
2 going over their daily capacity limits at the Crazy Horse
3 Landfill deliberately and knowingly in violation of the
4 state regulations. They've been doing this for profit in
5 order to fund their lawsuit against -- to build a new
6 landfill in their lawsuit against Monterey County
7 landowners in order to build that landfill. The Salinas
8 Valley Solid Waste Authority has a history of violations,
9 and that should preclude the consideration of any
10 permitted increase until they have demonstrated compliance
11 with the current regulations. Thank you.

12 CHAIRPERSON MULÉ: Thank you.

13 COMMITTEE MEMBER MARIN: Were you the one that
14 sent the letter?

15 MS. EADE: No. An attorney for one of the
16 landowners, they set up the Citizens to Save Long Valley,
17 one of the landowners in Monterey County who objects to
18 building another landfill, since we wouldn't be short of
19 capacity if they weren't taking all of the waste from
20 south Santa Clara County. And there's a large landfill in
21 Marino which the Solid Waste Authority refuses to deal
22 with, even though they have 100-plus years capacity and
23 are more than willing to sell the space because they have
24 too much space.

25 CHAIRPERSON MULÉ: Chair Marin, the letter was

1 sent by Mr. Kenneth Ehrlich representing Caroline
2 Singleton, trustee of the Singleton Family Trust. Thank
3 you.

4 MS. EADE: No problem.

5 CHAIRPERSON MULÉ: Okay. Ryan.

6 MR. FITZPATRICK: I believe most of my
7 concerns --

8 CHAIRPERSON MULÉ: You need to come up and speak
9 into the microphone for the record. And if you could
10 state your name for the record.

11 MR. FITZPATRICK: Ryan Fitzpatrick. Appreciate
12 the opportunity.

13 I believe most of my concerns were addressed by
14 Ms. Eade. Probably be a waste of time for me. Thank you.

15 CHAIRPERSON MULÉ: Thank you, Ryan.

16 Does staff want to respond to any of the comments
17 that were made to the letter that we received on Friday?

18 BRANCH MANAGER DE BIE: Mark de Bie with
19 Permitting and Inspection.

20 As Bea indicated, we did review the content of
21 the letter, and the testimony is very similar to some of
22 the items in the letter. As the Committee is aware, the
23 Board is limited in the scope on what we can utilize to
24 make decisions relative to the permit. Consistency with
25 state minimum standards is one of the items. The letter

1 is not alleging violations on state minimum standards. It
2 is indicating there are violations or have been violations
3 of the permit. Our staff reports that that is the case.
4 There were violations of the permit for increasing
5 tonnage, so we agree with that. This permit would
6 increase the tonnage limit. And we understand that it
7 will increase it to the amount necessary to maintain
8 compliance with the new limit. In other words, it's not
9 too small. It's just the right size for them to handle
10 this waste stream coming in.

11 Relative to issues in the application and
12 enforcement of the permit, staff needs to defer to the LEA
13 relative to those issues.

14 CHAIRPERSON MULÉ: Thank you, Mark. That's what
15 I was going to do. I was going to ask if the LEA is here
16 to address some of the issues that were raised in the
17 letter. Is there anyone here to address that?

18 Thank you. Could you state your name for the
19 record, please.

20 MR. VANHORN: I'm Roger Vanhorn, with Monterey
21 County LEA.

22 CHAIRPERSON MULÉ: I guess the question is, you
23 know, what did the LEA do to address some of these
24 violations? And if you could briefly give us an overview
25 of how you've handled this over the years.

1 MR. VANHORN: Okay. We did a graph several years
2 ago, and it goes up to the year 2002. You can see there's
3 been a dramatic decrease in violations for Crazy Horse.
4 And in 2003, they had no violations whatsoever. In 2004,
5 there were three violations for going over the permitted
6 tonnage at that time. The Authority wrote a letter to
7 South Valley Disposal stating they had to cut back on the
8 amount of tonnage they could take into Crazy Horse until
9 the new permit was finalized to increase their overall
10 tonnage. So that's --

11 CHAIRPERSON MULÉ: And did they do that?

12 MR. VANHORN: Yes, they did.

13 CHAIRPERSON MULÉ: And when was that letter --

14 MR. VANHORN: The letter was written in
15 September. The final agreement was done, I believe, in
16 the latter part of October. They were over in October,
17 but then December -- excuse me -- they were over in
18 November. But December, January, February, there hasn't
19 been any violations.

20 CHAIRPERSON MULÉ: So since November there have
21 been no violations?

22 MR. VANHORN: Right.

23 CHAIRPERSON MULÉ: It seems that in 2003 there
24 were numerous times that they exceeded their --

25 MR. VANHORN: 2003, no. There were no

1 violations.

2 CHAIRPERSON MULÉ: 2004, I mean.

3 MR. VANHORN: There was three different times
4 they were over: September, October, and November.

5 CHAIRPERSON MULÉ: Thank you.

6 COMMITTEE MEMBER MARIN: I have a question for
7 staff. When was the last time we revised this? I know
8 it's somewhere. I can't find it. When was the last time
9 that we revised this particular permit?

10 MR. VANHORN: 2003.

11 COMMITTEE MEMBER MARIN: That was to meet some of
12 the permit violations because of the amount of --

13 MR. VANHORN: That was increase the tonnage and
14 the vehicle limit going into the landfill.

15 BRANCH MANAGER DE BIE: Staff's recollection is
16 the last time it was revised -- the item says 2002. There
17 was a revision in 2003. And that was for a vehicle count
18 shift, not necessarily a tonnage. And hours also shifted.
19 But the tonnage, this is the first time in a number of
20 years that the tonnage has been addressed.

21 COMMITTEE MEMBER MARIN: Okay. So the LEA, you
22 feel comfortable with increasing the tonnage?

23 MR. VANHORN: Yes, we do, because there's no
24 increase in vehicle traffic into the landfill. And we
25 have no problem with going to the 1,400.

1 COMMITTEE MEMBER MARIN: Is there an increasing
2 population in the area?

3 MR. VANHORN: Yes, there is.

4 COMMITTEE MEMBER MARIN: Do we have more building
5 in that area taking place, especially in the last couple
6 of years?

7 MR. VANHORN: In the last couple years --

8 COMMITTEE MEMBER MARIN: Is that what is driving
9 the increase?

10 MR. VANHORN: Yes, it is.

11 BRANCH MANAGER DE BIE: Member Marin, staff also
12 understands there's seasonal fluctuations. It's still a
13 very large agricultural area, and there's waste generated
14 from that concern starting in March. So it's timely to
15 increase the permit limits as scheduled now. And so the
16 1,400 tons is basically enough buffer there to handle
17 those large seasonal increases. It's expected the tonnage
18 day to day would not approach that. But on occasions, it
19 may get up to the 1,400 ton mark.

20 MR. VANHORN: At the beginning of the --

21 COMMITTEE MEMBER MARIN: It's not going to be
22 every day they reach 1,400?

23 BRANCH MANAGER DE BIE: That's our understanding.
24 In looking at the CEQA documentation that was developed
25 for this approval, much of the description talks about the

1 seasonal increase and the every once in a while needing to
2 go over the 900 to accommodate the waste coming in. And,
3 in fact, staff's understanding is occasionally vehicles
4 have been turned away in order to avoid going over that
5 900-ton cap. So waste has been redirected to other
6 landfills.

7 CHAIRPERSON MULÉ: Thank you, Mark.

8 And this is a revision to an existing solid waste
9 permit. It is not a new permit for a new landfill.

10 BRANCH MANAGER DE BIE: Right. Crazy Horse has
11 been around for a very long time. It's reaching the end
12 of its life. It's our understanding it has another four
13 to five years before it will reach total capacity at the
14 rate of fill currently.

15 CHAIRPERSON MULÉ: Right. May I ask what are
16 your plans in 2009 when this landfill is scheduled to
17 close?

18 MR. VANHORN: That's a good question.

19 BRANCH MANAGER DE BIE: That would be a good
20 question for the Authority, I think.

21 MR. VANHORN: They're here. They can answer your
22 questions.

23 CHAIRPERSON MULÉ: Is there anyone here from the
24 Authority?

25 COMMITTEE MEMBER MARIN: One more question.

1 Because you're not increasing the number of vehicles, but
2 you're increasing the tonnage, how is that going to be
3 possible? Are you going to have bigger trucks, transfer
4 trucks?

5 MR. VANHORN: Yeah. They've never approached
6 what they're permitted for now as far as total vehicles.
7 And like Mark was saying, at the end of the ag season,
8 they get a big influx as the plants are closing down in
9 the Salinas area, so they get a higher percentage of waste
10 at that time.

11 COMMITTEE MEMBER MARIN: Okay. Good. Thank you.

12 CHAIRPERSON MULÉ: Good morning.

13 MR. JOHNSON: I'm Steve Johnson, not Steve Jones,
14 General Manager, Salinas Valley Solid Waste Authority.

15 Let me answer a couple of questions that you
16 posed. We very much hope this is the last Crazy Horse
17 permit revision. We expect to close it in 2009, and the
18 waste that is going there will go to Johnson Canyon.

19 We operate two landfills in Salinas Valley Solid
20 Waste Authority. The other one has had the CEQA
21 completed, and the permit process is under way to allow
22 all the waste within the Authority area to go to one
23 landfill rather than two. The whole intention is to close
24 this up, probably convert it to a transfer station.

25 And the answer to the question of why the vehicle

1 trips are so high is there's no dirt at Crazy Horse. We
2 must import dirt. So as a result, we did the CEQA to
3 allow 538 vehicle trips per day. And that's about two or
4 three times a quarter we bring in a lot of dirt trucks for
5 a week. Typically, we don't exceed about 250.

6 CHAIRPERSON MULÉ: And so you're really not
7 increasing the footprint; correct?

8 MR. JOHNSON: No. This is a vertical expansion
9 only to take advantage of all the facilities that are
10 already in place to maximize the fact that the landfill is
11 in and operating.

12 CHAIRPERSON MULÉ: And your plan is to close
13 it -- fill it up and close it?

14 MR. JOHNSON: Yes, ma'am. I'll be happy when
15 that day occurs.

16 COMMITTEE MEMBER MARIN: I do want to commend --
17 and I visited with the Authority last week -- two weeks
18 ago --

19 MR. JOHNSON: Two weeks ago.

20 COMMITTEE MEMBER MARIN: And I was very
21 impressed, Steve, with what the Authority as a whole is
22 attempting to do. And they're very forward looking.
23 Right now, they're meeting to see how they're going to
24 deal with the issue of lack of landfills that will take
25 place, and they're looking at having capacity over the

1 next seven, eight years. And I commended the fact they
2 are so forward looking. Because most people are just
3 concerned about what's going to happen in the next 20
4 years. The state is concerned about the next 15 years.
5 That you guys are really looking forward to fulfilling the
6 needs of your residents for the next 70 years is extremely
7 commendable.

8 I actually have mentioned you a couple of times
9 now to different groups that I've been addressing and that
10 they have embarked upon this journey of looking at every
11 single alternative out there besides landfills. And so I
12 commend you for that.

13 And I explained to their Authority how as elected
14 officials they've beared the responsibility of picking up
15 trash for everybody. They're expected to. Everybody
16 wants them to pick up their trash, but no one wants them
17 to put it anywhere. So as elected officials, they're left
18 holding the bag, you know. Okay. What do we do with this
19 now? And the fact that you are so intent to finding real
20 solutions for the next 70 years is pretty commendable.

21 MR. JOHNSON: Thank you very much.

22 If I could make one more comment. The letter
23 that you received and the group that is representing
24 themselves is not near Crazy Horse Landfill at all.
25 They're in the southern portion of the county. And there

1 seemed to be a little bit of confusion they might live
2 nearby. And they do not.

3 CHAIRPERSON MULÉ: Thank you for that
4 clarification. And thank you for answering our questions.

5 And thank you, Chair Marin, for sharing your
6 knowledge with the SBA with us. Appreciate that.

7 Any other from staff? Okay. Then we can move
8 on.

9 DEPUTY DIRECTOR LEVENSON: The last of the permit
10 items, Item H, Board Item 29, is Consideration of a New
11 Full Solid Waste Facilities Permit for the California
12 Waste Solutions Material Recovery Facility in Santa Clara
13 County. Bea will also give that presentation.

14 MS. POROLI: The facility is owned by the Duong
15 Family Trust and operated by California Waste Solutions,
16 Incorporated.

17 The proposed permit is to allow the operation of
18 a large volume transfer and processing facility. The
19 agenda item was updated on March 3rd, 2005. The updated
20 agenda now reflects that all of the requirements have been
21 met, as indicated on page 29-3 of the revised item. To
22 clarify the hours listed in the Environmental Quality Act
23 finding, it is staff's understanding that the negative
24 declaration describes the receipt of waste from 6:00 a.m.
25 to 6:00 p.m. However, the addendum filed on December 3rd,

1 2004, took into consideration and accounts receipts for
2 waste after 6:00 p.m.

3 In conclusion, staff recommend that the Board
4 adopt Solid Waste Facility Permit Decision Number 2005-62,
5 concurring in the issuance of Solid Waste Facility Permit
6 Number 43-AN-0024. The LEA and the operator are present
7 to answer any questions you may have.

8 CHAIRPERSON MULÉ: Thank you.

9 Are there any speaker slips?

10 Any questions, Chair Marin?

11 COMMITTEE MEMBER MARIN: I have more of a
12 question for staff. I hope this doesn't or maybe -- I
13 want some history. Because I really like the MRF concept,
14 the material recoveries facility, versus MSW, whatever
15 we're going to give them, a full solid waste facility
16 permit. Is this the trend? Is this something we've done
17 in the past? You know, we're giving -- they started as a
18 materials recovery facility, and it is because of the
19 amount of waste they were taking in that was not -- that
20 was contaminated, they were supposed to receive less than
21 1 percent.

22 I don't want to start a trend. I'm concerned
23 about this. I don't have a problem with this one. I just
24 want to know, is this something that we do traditionally?
25 Is this something we're going to see more of later on?

1 What are the extenuating circumstances for allowing this?

2 DEPUTY DIRECTOR LEVENSON: We are seeing many
3 more MRFs arising or expanding. But the primary issue for
4 this particular facility was whether it qualified under
5 the three-part test of the transfer processing regulations
6 as either a recycling facility which took source-separated
7 materials, had less than 10 percent residuals -- or if it
8 didn't pass any of those, meet any of these criteria, then
9 it qualifies as a facility handling solid waste that needs
10 to be regulated under our permit framework.

11 So this was the history on this facility.
12 There's quite a long history where there's been
13 documentation about the percentage of residuals being much
14 higher than the 10 percent limit and enforcement actions
15 by the LEA and various agreements requiring this facility
16 to actually get a solid waste facilities permit to operate
17 as a MRF.

18 COMMITTEE MEMBER MARIN: Explain that to me
19 again. So they're a MRF, but they're not really. So they
20 are, but they're not.

21 DEPUTY DIRECTOR LEVENSON: No. This is a
22 materials recycling facility, which in our regulatory
23 framework receives a transfer processing station permit to
24 operate as a MRF.

25 COMMITTEE MEMBER MARIN: But then we're allowing

1 them to have more materials than a traditional MRF would?

2 BRANCH MANAGER DE BIE: I'll give it a shot.

3 Mark DeBie with Permitting and Inspection. --

4 First of all, MRF is not defined in our
5 regulations. We don't recognize that term, MRF. But it's
6 a state-of-art term basically referring to a facility that
7 does lots and lots of recycling.

8 When the transfer station regulations were
9 written, we established a three-part test. And the 10
10 percent residual was designed as a bright line to measure
11 when you stop handling source-separated curbside kind of
12 material and when you start handling solid waste kind of
13 material. This facility has been finding it very
14 difficult to get below 10 percent. You know, at times,
15 20, 30, 40 percent of material that cannot be recycled
16 that needs to go to the landfill. So they can't get below
17 that bright line. And, therefore, they're viewed as a
18 solid waste facility. And the type of permit appropriate
19 for that kind of activity is a transfer station permit.

20 COMMITTEE MEMBER MARIN: So maybe we're dealing
21 with the wrong problem. Maybe we need to educate that
22 community what needs to go into the station. Because
23 we're solving the wrong problem here. Help me understand
24 this.

25 BRANCH MANAGER DE BIE: We're dealing with a

1 symptom of a larger problem, and it's not limited to this
2 particular community. We're observing it in other
3 communities as well. That material that's set aside for
4 recycling becomes contaminated one way or the other,
5 either at the point of generation or at some point along
6 the line and no longer can be viewed as a source-separated
7 material. This facility is trying very hard with the
8 waste stream coming in. But, you know, if people continue
9 putting inappropriate materials in, there will continue to
10 be a problem.

11 COMMITTEE MEMBER MARIN: Mark, I need some help
12 on this one, because I think we're addressing the wrong
13 problem here.

14 EXECUTIVE DIRECTOR LEARY: Well, as I think Mark
15 is trying to touch on, I'm sure you're hearing, is it
16 varies from community to community, jurisdiction to
17 jurisdiction. It's a reflection of the level of outreach
18 by either the jurisdiction or their service provider.

19 And maybe what we could do to contribute to that
20 is to put together a workshop or a forum and identify
21 those situations, jurisdictions where they've been
22 particularly successful in doing outreach to their
23 constituency to improve the quality of the materials put
24 in their recycling bin. And we may be able to identify
25 through a forum or workshop those that are very successful

1 so that those that are struggling with success or reaching
2 a successful limit can learn from the examples that we can
3 provide through this forum. So I would suggest, off the
4 top of my head, that maybe that's the next step for us as
5 a statewide organization.

6 COMMITTEE MEMBER MARIN: I hope you understand
7 what I'm saying. I don't have a problem giving this
8 permit. It's not a problem with this. It's just we're
9 dealing with the symptoms of a problem. And I'd rather
10 deal with the problem itself. This is not going to cure
11 it. Allowing this facility and other facilities across
12 the state to be sited as solid waste facilities does not
13 eliminate the problem that what's going in there shouldn't
14 be going in there to begin with. So I don't have a
15 problem doing this. I just think we need to focus our
16 efforts on the prevention of this problem.

17 CHAIRPERSON MULÉ: Chair Marin, you hit the nail
18 on the head. I met with Mr. Duong and Mr. Larry
19 Sweetzer -- I'll ask you to come up and further explain in
20 detail what the issues are. The issue, as I understand
21 it, is there's contract issues between the jurisdiction,
22 the hauler, and the processors. And what seems to be the
23 issue is that it wasn't clearly defined as to who was
24 responsible for what type of education activities. And so
25 you did hit the nail on the head. I understand also that

1 those issues are being resolved, but that seems to be the
2 issue here, that there are -- the reason for the residual,
3 the high percentage of residual, is because really what it
4 sounds like is they need to do a multi-lingual type of
5 outreach activity. And I think the problem can be
6 resolved. It's just a matter of the parties sitting down
7 together and determining who's responsible for what
8 activity.

9 COMMITTEE MEMBER MARIN: Do we need those
10 efforts? We should be able to come in. We're the experts
11 in this arena. If they need some help regarding that,
12 we'll be more than happy to sit down with the City, the
13 LEA, with the County, with the transfer station. You
14 know, I think we need to address the real issue here.

15 CHAIRPERSON MULÉ: Right. And, Larry, if you can
16 come up and say a few words and share what you shared with
17 me. Because once I met with them, I had a much better
18 understanding. Okay. Here's the problem. So Larry.

19 MR. SWEETZER: Larry Sweetzer on behalf of
20 California Waste Solutions.

21 Before I get into that, I do want to say thanks a
22 lot to staff, Beatrice Poroli, Mary Madison-Johnson, and
23 Mark de Bie, that helped us through some last minute
24 glitches. Also want to thank our LEA, Mike Hannon,
25 especially Dennis Ferrier, who we had many conversations

1 with almost every day for the last week. So we're all
2 holding hands. So on the issue --

3 COMMITTEE MEMBER MARIN: Are you singing Kumbaya
4 already?

5 MR. SWEETZER: After we get the permit.

6 The issue is a longstanding one. And I admit I
7 was involved in that 10 percent rule, and it can be done.
8 San Jose is quite proud of its recycling rate. They
9 encourage the residents to recycle nearly everything.
10 There is multi-lingual issues. There's economic issues.
11 There's lot of things that lead into the problem that we
12 have.

13 Our typical example we use is a cardboard pizza
14 box. If it's clean, we can take it. If it's dirty, we
15 can't. Trying to convey that information on the hundreds
16 of things that are allowable in the recycling bins is
17 difficult. We've had start-up issues trying to address
18 that for quite some time.

19 Staff has reported our residuals have been high.
20 We have that under control at this point. We've done
21 everything we can to get it down to the high teens, low
22 20s percent. And that's as far as we can go at this
23 point.

24 We have found a number of things in our recycling
25 containers, everything from tires to refrigerators,

1 computer monitors. Needles come in quite frequently.
2 It's a whole variety of things, car batteries. Unlike
3 anything I've seen in my history of teaching load checking
4 and training for the Board and others. It's incredible
5 the amount of stuff that gets put in the recycling bin.
6 That's a big source of education.

7 The other thing is enforcement at the curb.
8 There are things that can be done. It's been done in
9 cooperation with the hauler and the city in San Jose
10 periodically. And when it does, the residual goes down.
11 The hazardous waste goes down. When it stops, it goes
12 right back up.

13 There's a lot of things we can do. We have
14 regular meetings with the city, many agencies,
15 environmental services, as well as the LEA, with the
16 hauler. We're trying to address these issues. It's taken
17 longer than we would like to see, but it's being worked
18 on. And we would be glad to provide input into your
19 workshop.

20 CHAIRPERSON MULÉ: Thank you, Larry.

21 Does staff have anything to add?

22 DEPUTY DIRECTOR LEVENSON: No, other than I think
23 I understand where you were headed and you hit the nail on
24 the head.

25 And following up on what Mark suggested, we'll

1 work with the Executive Director and the Division of
2 Planning and Local Assistance to try to put together
3 information in the form of a workshop or other venue on
4 other success stories and barriers on this issue.

5 COMMITTEE MEMBER MARIN: You know, I can see
6 where we actually go to San Jose and work with them and
7 have a community forum or something like that, bring some
8 attention, talk to their editorial boards or do some
9 stories. To me, it seems that we can take a more
10 proactive role in this.

11 CHAIRPERSON MULÉ: Okay. Thank you. Thank you,
12 all. Thank you, LEA, for being here. Good to see you.

13 Next item, Howard.

14 DEPUTY DIRECTOR LEVENSON: Our next item is a
15 discussion item, Item 30 or Committee Item I. It's a
16 Discussion of the Closed, Illegal, and Abandoned Site
17 Program and the Bisso Brothers Site Case History in Sonoma
18 County. This is a discussion item only. We would just
19 like to let you know about some of the background
20 activities that go on at closed and illegal sites and
21 using Sonoma County example as one of our success stories.

22 And Scott Walker is going to start this off, and
23 we have Bob Swift, the Sonoma County LEA, and Glenn Young
24 from our CIA Program as well.

25 CHAIRPERSON MULÉ: Thank you, Howard.

1 (Thereupon an overhead presentation was
2 presented as follows.)

3 BRANCH MANAGER WALKER: Thank you. Scott Walker,
4 Permitting and Enforcement Division.

5 --o0o--

6 BRANCH MANAGER WALKER: The purpose of this item,
7 again, is to give a brief update and recent case example
8 of the Closed, Illegal, and Abandoned Site Program. We
9 try to do this once a year. And we'll move through this
10 one pretty quick.

11 This presentation will be a tag team. I'm going
12 to hand off to Bob Swift, Sonoma County LEA, who will
13 start the Bisso case, and Glenn Young, who's the Program
14 Manager, will also be working with Bob on the rest of it.

15 The Bisso site is a really good example of a
16 great LEA success story of a very complicated site where
17 the partnership with the program basically helped to make
18 it happen. So we're very happy with that, and a very
19 complicated case.

20 --o0o--

21 BRANCH MANAGER WALKER: Just running through some
22 of the basic definitions, closed sites are basically
23 closed solid waste disposal sites that have ceased
24 disposing waste and closed per applicable requirements in
25 effect at a time. Includes a lot of older sites that shut

1 down before any regulations applied to closure, but it
2 also includes -- unless it's exempt or excluded, those
3 active after January 1, 1988, are subject to the full
4 closure, post-closure plan, and financial assurances
5 requirements that are required to be approved by the
6 Board.

7 Illegal sites are unauthorized disposal to the
8 extent that cleanup is required. The activity's not
9 permitted, exempt, or excluded. The Permitting and
10 Inspection Branch would normally be the lead for cases
11 where the site is active or has a permit and is trying to
12 get a permit. So we work quite closely with them to make
13 sure we're coordinated appropriately.

14 Abandoned sites are where no responsible party
15 can be identified or located. Normally, there's very few
16 of these. Normally we consider most as closed sites,
17 because we can always identify a property owner. But
18 there are some cases where we can't. I'll later give a
19 real quick rundown in the state of where we are on all
20 these sites.

21 --o0o--

22 BRANCH MANAGER WALKER: The program that we have
23 is based on a budget change proposal that established the
24 program basically in 2001 and addresses primarily the
25 mandate under the Public Resources Code for assistance to

1 LEAs. We have a section of five staff and also have a
2 legal staff person, Steve Levine, who we work with quite
3 closely on this program. He's also our counsel for the
4 Cleanup Program, which makes it really good.

5 The core responsibility, to reiterate, is to
6 assist LEAs on investigation, inspection, enforcement, and
7 cleanup of these sites. They are responsible for the
8 inspection and investigation and enforcement under their
9 LEA program responsibilities. But the purpose is to
10 assist them. It's not just site-specific, but also
11 broader training and guidance.

12 The program works quite a bit on the solid waste
13 information system, maintenance of the site data. It gets
14 a lot of hits from the outside. In addition to LEA
15 performance evaluation, we also spend a lot of time
16 facilitating coordination with other agencies, like the
17 Water Board, Toxics, other locals, because these cases are
18 pretty complicated. That's a lot of what we do.

19 We implement several contracts, including lab
20 services contract, investigation services, an interagency
21 agreement with OEHHA for risk assessment assistance. And
22 we perform special investigations, such as a screening
23 statewide for Crippen-like sites. This was in response to
24 the Fresno fire emergency in 2003 where we sent the
25 program out to go through the whole state to try to find

1 out if there was Crippen-like sites that we needed to act
2 on immediately. That was a special project we had them
3 do.

4 Prioritization of sites is what we do with
5 respect to public health and safety and the environment to
6 essentially screen the sites that need to be investigated
7 or cleaned up based on a system that was approved by the
8 Board in 1999 and we used in the Cleanup Program. So we
9 want to screen through which ones are really important and
10 need work. And this is the system by which we do that.

11 Again, we screen sites for the Cleanup Program,
12 but the emphasis on this program is for the responsible
13 party to do the work, so we don't have to spend money.
14 That's our real focus here.

15 --o0o--

16 BRANCH MANAGER WALKER: Summarize priority, in
17 the prioritization, Priority A means cleanup. It's a
18 confirmed condition of pollution or nuisance as defined in
19 the Public Resource Code and Title 27 regulations.
20 Priority B, essentially, there's a thread of pollution and
21 nuisance. Most cases warrant further investigation.
22 Priority C is minimum threat, land use tract inspected.
23 And Priority D is no threat.

24 We also have an archive system for sites where
25 the listing is in error, sites have been closed or

1 otherwise not of concern, and the LEA has requested us to
2 archive it and take it off the history.

3 The histogram here I'd like to show you shows the
4 progress that we've made with prioritizing all the sites
5 statewide. The Board has about 5,800 listings in SWIS.
6 And of those, about 3,000 are the responsibility of the
7 Closed, Illegal, and Abandoned Site Program. There's a
8 lot of records and things. And a lot of them are in
9 error, and we've spent quite a bit of time cleaning those
10 up. And those are some of the archive cases.

11 But also we've completed all the non-archive
12 sites, essentially prioritizing. And we have about a
13 little less than 10 percent are Priority A or B. And so
14 we've really narrowed down really what are the ones we
15 need to focus on and work with the LEAs on.

16 The other thing is about 90 percent of the
17 inspections are being completed by LEAs, of the required
18 inspections. And that's really good, because when we
19 started, it was less than 50 percent. So we are really
20 happy we've gotten with the LEAs.

21 We also track -- we have about 24 enforcement
22 orders going on on these cases. We track those and work
23 with the LEAs and give them assistance.

24 --o0o--

25 BRANCH MANAGER WALKER: Next, before I hand off

1 to Bob, I'd like to run through really quick, but we have
2 about 1475 closed sites. There's about 125 under the
3 closure, post-closure plan, and financial assurances
4 requirements. About 80 have been certified closed and are
5 in post-closure. We track those. That's with our closure
6 section. We do that work primarily.

7 We've got about 500 of these pre-regulations burn
8 dump sites. And burn dumps were the accepted practice at
9 the time, open burning of municipal solid waste. We have
10 500 of those sites that we track. And they have their own
11 unique characteristics and issues to deal with.

12 Then the remainder is a combination of pre-'88
13 municipal solid waste landfills, private and public, and a
14 number of other various types of landfill-related sites
15 that we track and work on.

16 We have about 45 essentially closed sites that
17 have been cleaned up or in progress under the Solid Waste
18 Cleanup Program. So that deals with those cases that meet
19 the criteria.

20 --o0o--

21 BRANCH MANAGER WALKER: Very briefly on illegal
22 sites, we have about 50 SWIS listings. They include
23 multiple sites. There's about 250 individual sites, but
24 about 200 cleanups approved or in progress under the Solid
25 Waste Cleanup Program primarily in the grant projects.

1 There's about 340 separate archive sites that the
2 Cleanup Program cleaned up. And there's another 210 sites
3 approved. Most of them have been cleaned up. I would say
4 about 80 percent. They don't have SWIS listings. We
5 track separately.

6 There's also a number of the archived sites that
7 have been cleaned up by responsible parties and other
8 programs. So there are a lot of other cleanup that goes
9 on.

10 Briefly, the scenarios that we see. We've got
11 large public open dump sites. And we had some legacy
12 sites in the early '90s, huge ones which communities
13 relied on. Cleanup Program was involved in a lot of
14 those. The ones we see now are smaller, but we still find
15 some.

16 The other category is sham recycling or
17 composting C&D facilities, like the La Montaas, like the
18 Crippens. And the Bisso is one of these. Those are
19 primarily private, and they can be extremely complicated,
20 difficult, expensive projects. We've had successes both
21 in the Cleanup Program, but also we've had RP -- gotten
22 RPs to do their work.

23 And then in illegal dumping sites, again, we're
24 getting more into non-traditional type illegal disposal
25 sites and illegal dumping. We can't practically track

1 statewide how many there are. There are probably
2 thousands because they're so small and they pop up. But
3 we work on those quite a bit. Tribal lands have their own
4 unique situations that we work on. And then the storm
5 water outfall, the trash total maximum daily load sites in
6 primarily L.A. that we typically work with in the Cleanup
7 Program, those are kind of non-traditional.

8 So unless there's any questions, I'd like to hand
9 off to Bob Swift, and we'll start on the Bisso case.

10 --o0o--

11 MR. SWIFT: Good morning, Board Member Marin and
12 Board Member Mulé. Thank you for this opportunity to
13 present this case history on the Bisso Ranch illegal
14 disposal site in Sonoma County. My name is Bob Swift.
15 I'm with the Sonoma County Department of Health Services,
16 Environmental Health Division, which is the LEA for Sonoma
17 County.

18 Our case history presentation will consist of
19 some site background, then a discussion of key
20 enforcement, inspection, and remediation issues, which had
21 to be worked through and coordinated to clean up this
22 site.

23 On this slide, you can see the main debris pile,
24 which eventually became known as the burn area. And this
25 is adjacent to the levee alongside Sonoma Creek. In the

1 background in the center is what we call the farmyard
2 area. And that was mainly surface debris; 100, 150
3 abandoned vehicles, machinery, and other debris. In the
4 middle to the right is what was called the levee area, and
5 that extended out about 150 yards from the levee. And
6 then in the background to the right is an area called the
7 northwest area.

8 --o0o--

9 MR. SWIFT: This illegal disposal site consisted
10 of approximately 50 acres. And it's on an 800-acre parcel
11 adjacent to the Sonoma Creek, which is near -- it was
12 reclaimed, San Pablo Bay Wetlands, which was converted to
13 farmland in the early 1900s.

14 This office first issued a Notice of Violation
15 for operation of a solid waste facility without a permit
16 in 1985. At that time, the site consisted primarily of
17 construction and demolition debris with minor amounts of
18 household refuse and also hazardous waste.

19 From 1985 to 2001, the Bisso brothers continued
20 to illegally dispose of solid waste, hazardous waste,
21 despite many multi-agency inspections, which included the
22 U.S. EPA; CalEPA; and including the Department of Toxic
23 Substances Control, when initially they were part of a
24 division of California Department of Health Services; the
25 Integrated Waste Management Board; the Regional Board; Air

1 Quality Management District; California Fish and Game; and
2 U.S. Army Corps. of Engineers. And despite concerted
3 enforcement efforts taken by the County, this situation
4 continued from 1985 until 2001.

5 --o0o--

6 MR. SWIFT: These slides show some of the
7 conditions on the site. On the upper left hand is what's
8 called -- what the Bissos called their beaver dam levee.
9 It subsequently, you can see on the right, became known as
10 the burn area.

11 The bottom left-hand side you can see an overview
12 which shows some of the "farmyard" area with the abandoned
13 vehicle and machinery. And also to the bottom right you
14 can see some of this debris, which was also considered
15 farmyard operations.

16 As noted on the narrative on the previous slide,
17 the owner was jailed for contempt in 1995, which I'll
18 discuss in a little more detail later. But while
19 Mr. Bisso was in jail, he sent me a letter which is
20 addressed to me as the LEA, or as we are also known in
21 Sonoma County as the Center for Satanic Theology and
22 Entrapment, the Department of Conspiracy Services,
23 Division of Selective Environmental Prosecution, 1030,
24 Center Drive, Santa Rosa. I hope this doesn't reflect too
25 negatively on my next LEA evaluation.

1 Again, as I mentioned, this slide shows the 1995
2 fire, which occurred about a month after the Bisso's were
3 released from jail. Their explanation was that they
4 obtained an agricultural burn permit, and they did a fire
5 break. And the burn permit was issued by the volunteer
6 fire department. Their explanation was that a jackrabbit
7 caught on fire, ran across the fire break, and caught this
8 2,000-yard debris on fire. You can see the tires which
9 kept the fire going for a while.

10 When I showed up with the fire captain of the
11 Department of Fire Services, we were met on the road by
12 Jack Bisso in his tractor. And he stopped us and asked if
13 he could help us. And I'm with the fire captain. He's in
14 uniform. And I said, "Well, there's a fire going on.
15 We're here to investigate." He said, "Well, you seem like
16 nice fellows, but I wouldn't come to your house uninvited.
17 Do you have a warrant?" Which kind of threw the fire
18 captain for a loop for a little bit. But, eventually, we
19 accessed the site.

20 --o0o--

21 MR. SWIFT: I'll try to condense 20 years of
22 inspection and enforcement history into a couple of
23 minutes.

24 As I mentioned, we first issued a Notice of
25 Violation for operation of a solid waste facility without

1 a permit in 1986. Subsequently, the Sonoma County Board
2 of Supervisors directed the County Council to take
3 enforcement action to abate this public nuisance and
4 threat to public health, safety, and the environment.

5 From 1988 to 1991, inspections were conducted
6 with the LEA in coordination with the DTSC and U.S. EPA to
7 determine the potential violations of hazardous waste
8 regulations. The County's case went to trial in Superior
9 Court in 1992. In 1993, a joint CalEPA inspection was
10 conducted with representatives of the CIWMB, DTSC,
11 Regional Board, AQMD, and the LEA.

12 Also in 1993, the court found in the County's
13 favor and ordered the property owners to cease and desist,
14 to pay all costs and penalties, and to remove all solid
15 waste from the property.

16 Follow-up inspections revealed continued
17 non-compliance. And in 1995, the Superior Court issued an
18 order and judgment of contempt. This resulted in the jail
19 time, which was 92 days, and an additional assessment of
20 cost and penalties. However, the jail time did not have
21 the desired effect, as when the Bissos got out of jail, we
22 met them on the site the next time, he thanked us for
23 allowing him to spend some quality time with his brother
24 before he passed.

25 Also in 1995, Western Gravel, which was a distant

1 relative of the Bissos, entered into the picture as an
2 intervener. And this occurred as a result of a separate
3 civil suit which was filed against the Bissos in which a
4 former tenant fell through a cesspool and sued them.

5 Western Gravel stepped into the picture and agreed to pay
6 the lien against the property secured by a deed of trust.

7 Subsequently, the Bissos, from 1995 to 2000, kept
8 the case tied up in court by claiming that their own
9 notarized signature was a forgery, and because it was a
10 Spanish land grant, that local and state had no
11 jurisdiction. It was just the federal government. It
12 took five years, but eventually the property ownership
13 dispute was settled, and Western Gravel was deemed the
14 rightful property owner.

15 In 2001, with a more responsible property owner,
16 I issued a Notice and Order to the new property owner,
17 Western Gravel. With this Notice and Order and a new
18 responsive property owner, we were finally able to move
19 forward with the site investigation and remediation. I
20 relied on the CIA closed, illegal, and abandoned web page
21 to get some of the information that I needed to put into
22 my Notice and Order.

23 Now I'll turn it over to Glenn Young who will
24 discuss some of the results of the CIWMB/LEA efforts.

25 --o0o--

1 SUPERVISOR YOUNG: Good morning, Board Member
2 Marin and Board Member Mulé. My name is Glenn Young. I
3 manage the CIA Program for the Board.

4 I'd like to thank the Board for their support of
5 the program and the contracts which allow us to provide
6 the LEA with technical assistance. I'd also like to
7 acknowledge Bob Swift for his outstanding dedication and
8 effort in managing and coordinating the successful cleanup
9 of this site. It took a lot of hard work and a lot of
10 effort on his part to track this site amongst all of his
11 other responsibilities as an LEA.

12 --o0o--

13 SUPERVISOR YOUNG: Our program assists LEAs in
14 the inspection, investigation, and enforcement of CIA
15 sites. And in the case of Bisso, our primary role was to
16 assist Bob with the review of investigation and cleanup
17 plans for the site.

18 Just to kind of caveat a little bit, initially we
19 thought this would be a good site candidate for the
20 Cleanup Program, and we were ready to turn it over to
21 Wes's group at that time because of the significant amount
22 of enforcement that had been done and it was documented,
23 et cetera. But when Western Gravel came into the picture,
24 they basically provided -- they were a responsive RP. So
25 they were willing to go down the road of submitting a work

1 plan and trying to develop a remediation for the site.

2 So we supported Bob with basically a review of
3 the consultant's work plans and made sure that the key for
4 it was to make sure that they conducted the investigation
5 so useful information could come out of it so they could
6 look at different remedial approaches.

7 When you walk on to some of these sites, they're
8 very complex. There's all types of waste streams that are
9 deposited. And it's important to know the extent of those
10 deposits and what's in those deposits so you can develop
11 the quantities to figure out how much it's going to cost
12 to remove it.

13 So part of it was to keep the consultant on
14 track. They were going to go out and conduct both a
15 trenching, a direct push investigation. And we helped
16 them to pick the spots, determine what types of
17 characterization needed to be done, and what the basic
18 objective of the investigation was.

19 --o0o--

20 SUPERVISOR YOUNG: Just so you can see, this
21 shows the layout of the site. It was pretty large. It's
22 about 50 acres. It was all filled against a levee. The
23 farm areas on the south side of it -- and Bob pointed that
24 out in a couple of pictures. The burn area was a long
25 area that had received a lot of mixed waste, including

1 hazardous wastes, that were burned.

2 The northwest area was primarily construction and
3 demolition debris that was deposited in the late '90s.

4 The direct push rig that you see in the picture,
5 that was what the consultant initially proposed. But we
6 had them incorporate some trenching. Because with C&D
7 type areas, it's very difficult to use the hydraulic
8 direct push equipment. You get a lot of refusal from the
9 concrete and the rubble.

10 But the upside of the investigation was that the
11 waste piles at the site were relatively easy to find
12 because the site mostly is in a water table that's right
13 at ground elevation. They never excavated very much, and
14 most of it was just placed very much on top of the ground.
15 So we were dealing more with a horizontal issue.

16 --o0o--

17 SUPERVISOR YOUNG: So with the investigation work
18 plan completed, we worked with the RP and the consultant.
19 And I wanted to thank Steve Levine for his efforts in
20 helping to negotiate with the RP. We actually got him
21 involved when we were talking about the work plan and the
22 different remedial alternatives. And basically -- and
23 also got Wes's group involved to provide them with some of
24 the cost data that they had had from some of the projects
25 they were currently working on at that time. That really

1 helped the owner of the site at Western Gravel to
2 determine what his alternatives were and how much he was
3 willing to pay for the cleanup, which I think helped him
4 move the process along. At one point in time, we also had
5 offered to provide the LEA with an IDS Cleanup Grant,
6 should the RP not have enough money to continue the
7 process of cleaning up.

8 So with that, I'm going to go ahead and turn it
9 back over to Bob.

10 --o0o--

11 MR. SWIFT: Although the original Superior Court
12 judgment required the removal of all imported solid waste,
13 which is approximately 100,000 cubic yards, based on the
14 results of the site characterization study and the
15 approved site remediation work plan, we were able to
16 remove a significant portion of the debris. But we were
17 also able to process and reuse on site. And based on the
18 site characterization, some of the material could remain
19 on site as fill material. As you can see, 150 vehicles,
20 almost 7,000 tires, 4,000 yards of refuse garbage, 900
21 tons of scrap metal were recycled. In addition, there's
22 also there were about, I think, thirty 55-gallon drums of
23 designated and hazardous waste removed during this
24 cleanup.

25 --o0o--

1 MR. SWIFT: As a result, this is what the site
2 looks like today. And the County has conditionally
3 accepted the closure of this site, even though, again,
4 50 percent of the material still remains on the site.
5 Based on site characterization, we feel it's acceptable to
6 remain. You can see in the upper right-hand portion the
7 piles of concrete that were processed and used as road
8 base. Behind that palm tree is a pile of chipped wood
9 waste, which will be used for erosion control.

10 The remaining conditions for the County
11 acceptance of this closure of this site is that there will
12 be -- again, this is a 50-acre disposal site -- illegal
13 disposal site. The entire parcel is 800 acres. The
14 entire 800 acres will be transferred to the California
15 Department of Fish and Game for wildlife habitat and
16 wetlands restoration. That is the first condition. The
17 other condition, the Board of Supervisors agree to forgive
18 50 percent of the fines and penalties which were assessed,
19 which still means the County will be receiving over
20 \$200,000 in fines and penalties for the clean up of this
21 site.

22 I'd like to just thank the Waste Board, Scott's
23 group for their assistance in collaboration and in dealing
24 with this long and complex site. Especially like to thank
25 Glenn and the CIA site for their review of the site

1 characterization reports and work plans for remediation;
2 Wes Mindermann and his staff for reviewing some of the
3 costs that would be involved for hauling, disposal, and
4 processing, and allowing the consultant to accept the most
5 appropriate option for remediation; and also Steve Levine
6 with the Legal staff for his advise and guidance on the
7 consequences of non-compliance with the Notice and Order.

8 And that concludes our presentation.

9 CHAIRPERSON MULÉ: Thank you all very much. It
10 was very, very informative.

11 And do you have any questions, Chair Marin?

12 COMMITTEE MEMBER MARIN: Having gone through the
13 experience of La Montaa, I can totally relate with the
14 years-long battle. And when you have complete disregard
15 for the law by the owner, the proprietor, and that every
16 time -- at one time I was kicked out of the La Montaa.
17 They didn't show me a gun or anything like that, but I was
18 kicked out of there. So I can appreciate the battles in
19 court, you know, for ten years to get that done. So I
20 appreciate what you've gone through. It's amazing how
21 people just refuse to abide by the law. And they have no
22 regard for anything but themselves. And this really --
23 I'm glad.

24 Are we going to recover any money at all from the
25 750 that cost us?

1 BRANCH MANAGER WALKER: That actually didn't cost
2 us really anything other than staff time. The Board
3 didn't spend money. The RP spent the money to clean it
4 up. They're paying some fines to the County, 50 percent
5 of the fines, about 200,000, but that's -- so the Board
6 didn't have to spend --

7 COMMITTEE MEMBER MARIN: That's great.

8 Let me ask you this, because this reminds me. I
9 just visited city of Brawley, and they have a landfill
10 that is right next to a river that actually flows north.
11 Are you familiar with that site?

12 BRANCH MANAGER WALKER: Yes, I am. And we
13 actually have assisted the Brawley -- that landfill site
14 with some work through the Cleanup Program on the new
15 river side. And now we're working with them to get the
16 site closed under the closure, post-closure plans that are
17 going to be able to help protect the river from any
18 further erosion.

19 COMMITTEE MEMBER MARIN: The river, it is really
20 an unsightly sight. It's just absolutely -- I mean, it's
21 illegal dumping all over that portion of the river that I
22 was able to view. And, you know, I'm just thinking of all
23 the things that are there. I witnessed it. And it's
24 really tragic. And I don't know what we're doing. That's
25 another thing that I think we need to somewhere, somehow

1 need to put some effort. Because that river looks nothing
2 like a river, which is very, very sad.

3 BRANCH MANAGER WALKER: We have done some work
4 and continue to outreach there and will continue to do so,
5 because that is a major area of trash problems in the
6 state and the border zone.

7 COMMITTEE MEMBER MARIN: Anyways,
8 congratulations, and thank you for all your work. It's
9 just amazing.

10 CHAIRPERSON MULÉ: I, too, want to thank all of
11 you for all your hard work on this and different agencies
12 getting together on this.

13 I guess the one thing that does frustrate me is,
14 as in La Montaa, it took so long and so many different
15 local and state and federal agencies basically with their
16 hands tied, not being able to truly go after these people
17 and allowing -- not allowing -- but, unfortunately,
18 because their hands were tied, not being able to address
19 this. And so I don't know what we can do legislatively,
20 regulatorily. It's very frustrating. I see the LEA folks
21 saying the same thing.

22 I don't know what we can do. But I think that
23 might be an area that we could focus on as a Board and as
24 Board staff, you know, is how can we -- what can we do?
25 Is it a law? Is it a regulation? I mean, what can we do

1 that's going to address this immediately and not allow it
2 to continue to negatively impact our environment? That's
3 what frightens me, is that this was allowed to go on for
4 so many years adjacent to a creek.

5 DEPUTY DIRECTOR LEVENSON: I think Steve Levine
6 might have some other ideas. But we certainly have looked
7 into that situation. At this time, the best that we can
8 try to do is to coordinate with all the agencies and make
9 sure we're taking the appropriate legal actions to be in a
10 position to go in when there is a settlement or the court
11 orders something. As you saw with La Montaa, which was
12 simpler than this case, but look at the history there.
13 Appropriate actions were being taken by the various
14 entities, yet, we still were unable until late last year
15 to gain the authority into the site and perform -- in that
16 case it was a cleanup. In this case it was under the CIA
17 program and assisting the LEA.

18 We can continue to look. We have looked at some
19 site access issues in terms of legislation. But overall,
20 it's part of the complexity of the many, many different
21 owners -- I mean, the entities involved, who's the RP,
22 what's their status.

23 STAFF COUNSEL LEVINE: Hi. Steve Levine from the
24 Waste Board.

25 Yes, we do share your concern, obviously. And

1 working with Bisso was a very frustrating experience, but
2 eventually turned out to be very fruitful where we got the
3 responsible parties to step up to the plate, sort of
4 forced the old owner out. Got new owners in that took
5 care of it.

6 The one suggestion that we've been trying
7 legislatively for a few years now is to get some access
8 provisions in our Cleanup Program similar to what the
9 Waste Tire Program presently has. And that is once you go
10 through an administrative hearing -- not a court case, but
11 just an administrative hearing, finding liability, and, of
12 course, also when the Board makes a determination there's
13 a threat to the health, safety, and environment, in the
14 Waste Tire Program we have what is akin to an inspection
15 warrant, like an abatement warrant. And it's very
16 streamlined to go before a judge and get access to clean
17 up the site. Without that, you basically have to do a
18 full-borne Superior Court case compelling access. And who
19 is going to do that? Is it going to be the AG? Is it
20 going to be the County? That has always been a
21 difficulty. We tried for a few years now to get this
22 legislation passed in the solid waste cleanup arena like
23 it is in waste tires and have not had success yet. But we
24 will continue to try.

25 CHAIRPERSON MULÉ: Thank you.

1 COMMITTEE MEMBER MARIN: That's something where
2 we need to focus. Because, you know, I can tell you I am
3 so proud to live in America that we have a legal system
4 that really protects all the rights of all the proprietors
5 and owners and all that, except the public health of our
6 community. You know, I can vouch for that. There are a
7 lot of rights that our legal system protects, and
8 sometimes to the detriment of the community as a whole.
9 And those people find the lawyers that would go out there
10 and stall. And the tactics that they use, you know, is
11 revolting, as far as I'm concerned.

12 But I can tell you we do have the best legal
13 system on earth. No one can deny that these people have
14 rights and their rights have been protected. And
15 eventually, you know, the public good has to win, and it
16 does. But sometimes it takes too long for justice to be
17 served. But that's a good thing. We should really look
18 at attempting to affect legislation that will give us that
19 authority.

20 CHAIRPERSON MULÉ: Thank you, Steve. Appreciate
21 that explanation.

22 DEPUTY DIRECTOR LEVENSON: If I can just wrap up.
23 I just want to thank Bob for coming over from Sonoma to
24 help present this. And also just to indicate that while
25 this was an extremely complicated and, you know,

1 time-consuming site, we have a lot of similar sites, not
2 to this degree, that are going on all the time.

3 We have some of Scott's staff, for example, is
4 down in Belmont Shores looking at an old burn dump and gas
5 leakage on a trailer park that was built over it, and what
6 do we do in terms of addressing that kind of situation?

7 There's a lot things that go on between the LEAs,
8 our CIA staff, our Legal Office that the Board rarely sees
9 in terms of a particular decision, but that we're trying
10 to get all the information we can to solve these problems
11 and either bring them to you for a Cleanup Grant, which
12 sometimes is our strategy to get the RP to act. When they
13 know we're going to come in and seek cost recovery,
14 sometimes they go ahead and finally do what they should be
15 doing. Other times, we have a situation like this where
16 the RP did eventually take over and do the right thing.
17 So just want to thank everyone.

18 COMMITTEE MEMBER MARIN: Thank you.

19 CHAIRPERSON MULÉ: Thank you.

20 Okay. We're on to our next item.

21 DEPUTY DIRECTOR LEVENSON: We have two items
22 left. This item is Item J, Board Item 31, is Discussion
23 of the Local Enforcement Agency Evaluations through
24 December 31st, 2004. This is an annual update as well,
25 although we structured it a little differently this year.

1 Gabe Aboushanab, who manages the LEA Evaluation Section,
2 will give the presentation. And with him is Sharon
3 Anderson, Branch Manager for the entire LEA Branch.

4 SUPERVISOR ABOUSHANAB: Thank you, Howard. Good
5 morning, Madam Chair and Member Marin.

6 As Howard mentioned, this has become an annual
7 tradition for us. And this will be for the third
8 evaluation cycle for findings through December 2004.
9 Actually, we have the evaluation process summarized for
10 you as Attachment 2, but I will not be going into it. It
11 involves a stepped approach for Program staff as well as
12 formal Board involvement in the event that escalating
13 action is necessary. This could be up to and including
14 LEA de-designation or decertification.

15 Now, in the evaluation process, we use statute as
16 the basis for what we look for. This is PRC Section
17 43214. And we're mandated to find an LEA not to be
18 fulfilling its responsibility if we find one of those six
19 statutory findings.

20 Brief, they are: That the LEA fail to exercise
21 due diligence in inspections; two, they intentionally
22 misrepresent inspection results; three, they fail to
23 prepare or cause to be prepared permits, their revision,
24 or closure plans. Four would be they approve permits,
25 their revision or closure plans, inconsistently with

1 statute of regulations. Five is that they fail to take
2 appropriate enforcement actions. And six, which is almost
3 a catch-all, says fail to comply or take actions that are
4 inconsistent with statute or regulation.

5 I believe it's important to note for you these
6 statutory criteria are limited. For example, the criteria
7 that does not address the quality of an inspection
8 conducted by the LEA. But if we look back at Finding 6,
9 we see it can address quality issues to the extent that an
10 LEA does not fulfill a requirement. That's pretty
11 specific in the regulation statute.

12 In other words, for permitting, for example, the
13 LEA certifies a package to contain a certain number of
14 things of acceptable and complete. Now, if the quality of
15 the package submitted after our review shows it's not
16 complete and quality and acceptable, we can make a finding
17 under 6, since that's that specific.

18 And, basically, this item assesses the Board's
19 progress in responding to a 2003 Bureau of State Audit
20 Report. And it briefly discusses improving the evaluation
21 process statutory framework and providing increased
22 in-field assistance and training related to LEA
23 performance. It encompasses a lot of assistive mode the
24 division undergoes, too.

25 One of the most important things, if I may direct

1 your attention to Attachment 4, especially the back of it,
2 we have the triggers. And the triggers are basically
3 Permitting and Enforcement Division established a set of
4 triggers to determine the appropriate time to initiate
5 action, to provide direction to LEAs.

6 If you look at the back of that page, you can see
7 there are many negative trends that staff looked for that
8 would need correction outside the evaluation cycle. These
9 could be specific measures by Board staff who are in that
10 program to assist or guide the LEA in training in a
11 particular category or function, processing certain
12 documents or regulatory guidance, enforcement guidance,
13 CEQA guidance. Even assistance involving other state
14 agencies comes out of this process.

15 Should this process actually fail and, you know,
16 deficiencies continue, this can lead to a full-fledged LEA
17 evaluation, or even an item before the Board to take
18 action. As a matter of fact, Attachment 3 is a stick
19 chart that shows all the steps the Board can take and the
20 authority they have and the actions they can affect.

21 DEPUTY DIRECTOR LEVENSON: Gabe, if I can just
22 interject for a moment.

23 We wanted to draw your attention to this trigger
24 process and what goes on in between evaluations, because
25 there's been a number of questions over the last several

1 months, half year, about LEA performance on specific
2 permit issues. And this is one of the mechanisms we use
3 in talking with LEAs. If we see some deficiencies, we
4 need to be documenting those deficiencies and working with
5 the LEAs immediately to correct those. That documentation
6 then also later becomes part of the formal LEA evaluation
7 process. So that's an important step that we've been
8 trying to do more of in the last couple of years, those
9 kind of intermediate documentation steps.

10 CHAIRPERSON MULÉ: If I could just ask, what are
11 some of the triggers typically?

12 SUPERVISOR ABOUSHANAB: If we look at, for
13 example, the back of Attachment 4, we have them broken out
14 to five different types of triggers. We've got inspection
15 triggers --

16 BRANCH MANAGER ANDERSON: If I can interject. I
17 think she wants to know what the most common triggers
18 we've been finding are.

19 CHAIRPERSON MULÉ: Yes.

20 BRANCH MANAGER ANDERSON: What are some of the
21 most common triggers that we've been working on with LEAs?

22 SUPERVISOR ABOUSHANAB: It's probably going to
23 wind up missing inspections, late permit reviews,
24 enforcement action when guidance is forthcoming from the
25 Board but not being responded to by the LEA. That starts

1 those things.

2 CHAIRPERSON MULÉ: Thank you.

3 SUPERVISOR ABOUSHANAB: You're welcome.

4 You know, what Howard mentioned, implementing
5 most of these ideas has helped improve LEA performance,
6 really. Operational problems have been solved more
7 rapidly, and even permitting issues are being handled
8 earlier on, so permits are improved the way they come in
9 over time.

10 Now, just to touch on the Bureau of State Audits.
11 They conducted a review of our Board and concluded in
12 December of 2003 with a report. I believe it was
13 2003-113. Now, among many findings, they found that a
14 review of the Board's and local agency interactions
15 through the process, they found that the outcomes of the
16 evaluations were appropriate. However, they did find we
17 did not conduct all evaluations within a three-year cycle.
18 There were a handful or so missed. They got done later.
19 They weren't missed.

20 In order to address that, we've implemented many
21 ways to improve the flow here. Things that come to mind
22 include more consistent and timely data input into SWIS by
23 staff. And we have a bunch of special reports that -- ad
24 hoc reports out of the SWIS database that help us look for
25 trends and results. We have firmer deadlines for internal

1 discussions where we go back and forth trying to find
2 facts between us, staff, and LEA, and reviews of draft
3 documents prior to finalizing and sending them out. So a
4 lot of those have been improved.

5 As a matter of fact, barring unforeseen
6 circumstances, we're basically confident that the
7 evaluations in this cycle will be concluded within three
8 years, well ahead. We are ahead at this point, I should
9 say.

10 And I would like to at this time direct your
11 attention to Attachment 5 and quickly summarize what we
12 found through 2004. Now, Attachment 5 summarizes the
13 findings based on jurisdictional basis and any work plans
14 that the LEAs have been put on in order to address some of
15 these findings. And really quickly, we found out of the
16 33 completed evaluations through December, 21 LEAs were
17 found totally fulfilling their duties and
18 responsibilities; five were found to be fulfilling most
19 duties and responsibilities.

20 BRANCH MANAGER ANDERSON: Is there supposed to be
21 a slide?

22 SUPERVISOR ABOUSHANAB: No. It's coming up.

23 And the five that were fulfilling duties and
24 responsibilities. And seven were not fulfilling all their
25 duties and responsibilities. Those were put on work

1 plans.

2 Now, there's a little bit of a tricky one here
3 that says fulfilling most duties, those five in the
4 middle. Basically, we run into cases where the LEA did
5 not inspect a facility or two or a closed site or they're
6 slow getting a permit review completed. As we flush these
7 things out during the evaluation, some of these things,
8 they change immediately, like inspections, or documents
9 get completed. They're in the process. So they become
10 most duties and responsibilities. There's nothing left to
11 do, essentially, after evaluation.

12 (Thereupon an overhead presentation was
13 presented as follows.)

14 SUPERVISOR ABOUSHANAB: Now I want to direct your
15 attention to what Sharon was mentioning. I do have a
16 slide for you that shows --

17 --o0o--

18 SUPERVISOR ABOUSHANAB: I'm going to put them all
19 up at once here. We found, out of all the findings, that
20 seven LEAs fail to exercise due diligence in inspections.
21 And there were five instances where they failed to prepare
22 or cause to be prepared permits or closure plans. There
23 were three instances where the LEA failed to take
24 appropriate enforcement action. And there was one
25 instance where they failed to comply with or take action

1 inconsistent with statute or regulation. So that was
2 where the quality aspect was handled.

3 Now, I would like to mention at this point in
4 time that part of the evaluation for one jurisdiction in
5 particular, Madera County, found that the LEA did not
6 maintain a certification requirement as far as maintaining
7 what we call a distance between the operating unit in a
8 county and the LEA. They've inadvertently created a
9 resource management agency and somehow wound up with the
10 operating unit and the LEA under the same agency. And we
11 currently have been actually for a year or more working on
12 resolving this issue. And I just want you to be prepared
13 mentally that we might be coming before the Board for some
14 action on your part, should this matter not be resolved in
15 the near future.

16 Now, unless you have questions, the next point I
17 would like to make is as far as the evaluation work plans
18 that we mentioned earlier --

19 --o0o--

20 SUPERVISOR ABOUSHANAB: -- we've got the
21 evaluation work plans in several stages. The LEA has
22 completed three in 2004. And there were six that are
23 still ongoing where they have facilities with sites and
24 tasks to do and complete. And at the time the agenda item
25 was written, we had two LEAs who were developing work

1 plans. Since the item was completed, they have been
2 approved.

3 At this point I would like to conclude by going
4 backwards, I guess.

5 --o0o--

6 SUPERVISOR ABOUSHANAB: I'm giving you a summary
7 of -- essentially, the third cycle we've completed 33.
8 And as you see, about 64 percent are doing a great job.
9 And the other 21 are on work plans. And 15 didn't need
10 work plans, so they took care of things during the
11 process. I thought I'd contrast that for you with the
12 summary of the second cycle.

13 --o0o--

14 SUPERVISOR ABOUSHANAB: Now, at the end of the
15 second cycle, half the LEAs only were fulfilling their
16 duties and responsibilities. And you can see the other
17 50 percent were split more or less even.

18 So, so far, it would be fair to say that LEAs are
19 doing better. And the trend is a good 14 percent better
20 in performance. We just hope this carries through the
21 next year and we show a definite emphasis on improvement.

22 I want to thank you for your interest in this
23 item and hope that you view the Board's LEA program
24 assistance as one of the crown jewels of the Board. And I
25 want to say the LEA performance efforts involve not only

1 P&E Division staff, but LEAs across all branches and so
2 forth. And I thank you for your time.

3 That concludes my presentation. I'd be happy to
4 answer any questions.

5 CHAIRPERSON MULÉ: Thank you. That's very
6 interesting, once again.

7 Chair Marin.

8 COMMITTEE MEMBER MARIN: I want to congratulate
9 you. Obviously, we're going in the right direction where
10 we have more and more complying with the requirements, if
11 you will.

12 What I want to do is I'd rather use a carrot than
13 a stick if we can, at any time. If there's any further
14 incentives that we can provide to the LEAs that are not
15 fulfilling their requirements, I'd much rather go that
16 route. We can always enforce. We can always take away
17 their money. We can always do that. But I'm wondering
18 what can we do to help them more, do it sooner, faster,
19 better, cheaper, and so forth. And I don't know if there
20 is -- and I'm not expecting the right answer right here,
21 right now. Because if you knew it, you would have done
22 it.

23 SUPERVISOR ABOUSHANAB: Actually, there are
24 several ways we try to accomplish this. I'm sure Howard
25 and Sharon want to elaborate on that.

1 DEPUTY DIRECTOR LEVENSON: Yeah. Member Marin,
2 you're exactly right. We actually view this as a
3 partnership with the LEAs. That's one reason why the
4 process is set up as it is. So there's a lot of back and
5 forth with the LEAs, not only just to get the facts
6 straight, but go back and forth on deficiencies and work
7 plans. And we monitor work plans. And that's pretty much
8 a collaborative effort. There's always little bumps in
9 the road. But it's a collaborative effort designed to
10 perform on track without having to take a formal
11 enforcement action. For the most part, virtually all the
12 time, we're successful in that. So I think we do take the
13 carrot approach.

14 At the same time, to enhance that, you know, we
15 need to be out in the field more providing training,
16 technical assistance -- these are just ideas off the top
17 of my head -- joint inspection to calibrate performance.
18 We do have an item coming to you next month on the broader
19 training issue. And, you know, it dovetails very nicely
20 with this in terms of what more do we need to do more as a
21 Board to provide assistance to LEAs up front. So the
22 training issue is big.

23 At the same time, we want to be prepared if we do
24 need to take an enforcement action that we have the right
25 kind of documentation and we've given the LEAs a chance to

1 correct things. That's where part of the triggers and the
2 documentation comes in. So, you know, hopefully we can
3 keep on the mode of the carrot.

4 Gabe mentioned one county where we do have a
5 conflict of interest issue, and we're going to have to
6 issue a notice to them very soon that we'll be scheduling
7 a hearing before the Board if we can't resolve that.
8 We've worked very closely with the Legal Office and the
9 LEA down there for over a year now to try to resolve this.
10 So we essentially have shied away from the enforcement
11 side in favor of the -- at least negotiations in that
12 case. But we're coming to a point where we're not able to
13 resolve it.

14 COMMITTEE MEMBER MARIN: That is perfectly fine.
15 If after all of our good faith efforts fail, then we have
16 the stick, and we can do that. We can exercise that.

17 My philosophy is if we're asking people to do
18 something and they fail to do it, then maybe I didn't do
19 something. So put the onus on us. What can we do? What
20 further efforts can we do? Is it training? Is it holding
21 the hand? Is it joint visits? You know, is there
22 something that we can do?

23 Because I really believe at the end when they
24 realize that their success is really our success and we've
25 done everything together, then they cannot fault us.

1 Because it would be very easy for us to accuse them of
2 something and say, "Well, you didn't provide us. You
3 didn't give us this. We don't have the tools."

4 So more than anything else, it's an
5 introspection. Is there anything that we, as the Board,
6 or you, as a department, can do to work with the LEAs?
7 Because after we've exhausted all of that and they still
8 fail, then we go to enforcement. We've done everything.

9 But I used that with everybody. Throughout my
10 career it's always been, if my employee was not doing
11 something I expected them to do, maybe I did something
12 wrong. Maybe I haven't done the right thing. What can I
13 do? After I've done everything I can possibly do, then we
14 fire them. That's it. You know, of course, I fire a lot
15 of people and they show up again the next day so --

16 DEPUTY DIRECTOR LEVENSON: You tried to fire
17 somebody last month, didn't you, at a birthday.

18 You're absolutely right. In fact, what you're
19 saying is consistent with the Board's discussion last
20 month about how we provide assistance to local
21 jurisdictions and kind of what do we look at internally to
22 improve that. We've had, I think, a long partnership with
23 the LEAs. We meet with -- this week we have the quarterly
24 meeting of the Enforcement Advisory Council tomorrow, and
25 on Wednesday, with the Solid Waste Policy Committee of

1 CCDEH where we go back and forth on a lot of these issues.
2 And there's not always consensus and harmony, but we try
3 to work them out. This is one of them.

4 And LEAs are as interested as we are in getting
5 performance, keeping performance at a high level, and how
6 do we correct that, and what do we need to do to help
7 them. That's where, as I said, the training item next
8 month we're going to explore, should we be expanding or
9 not what we're doing? Should we be having staff more out
10 in the field and doing less hand holding at the end on
11 permits? Those are issues that are ripe for discussion.

12 COMMITTEE MEMBER MARIN: Great. Thank you,
13 Howard. Thank you very, very much.

14 CHAIRPERSON MULÉ: Thank you, Chair Marin. And
15 you must have been reading my mind, because we have been
16 having some -- I've been having some discussions with
17 Howard and his staff on that very same philosophy. I
18 share your philosophy on using the carrot instead of the
19 stick and looking at maybe shifting our thought process,
20 if you will, to prevention and doing that via training and
21 being out in the field more. And so they are having
22 discussions with various groups. And so again, I share
23 your philosophy and hope that we can move forward in that
24 direction.

25 But I do want to commend staff on these

1 evaluations. I think that I can appreciate the amount of
2 work that went into this. And I think you're doing a
3 great job. But, you know, there's always more that can be
4 done, as we know. And it seems like, though, that you are
5 looking to that direction. And so I appreciate all your
6 work and hope that we can, again, move this forward so
7 that we can go in more of a prevention mode via training
8 and technical assistance as opposed to the stick. So
9 thank you all very much.

10 DEPUTY DIRECTOR LEVENSON: We'd be happy if we
11 never had anybody on a work plan. But if at the end of
12 the work plan they haven't performed, then that's when we
13 need to bring them for further consideration.

14 CHAIRPERSON MULÉ: Well, and again, this shows
15 that the process is working. The process is working. You
16 have fewer LEAs that are on work plans. So it is working.
17 Thank you all very much.

18 BRANCH MANAGER ANDERSON: Can I have one last
19 word? Sharon Anderson, Manager, LEA Support Services
20 Branch.

21 We actually in between each cycle, the first and
22 second and second and third, we sat down with our
23 partners, the LEAs, and asked them about the process and
24 asked them those questions what can we do differently for
25 the process so it can be more well received so it doesn't

1 feel harsh and punitive, yet you still have to go through
2 it. And so we retooled it between the first and second
3 substantially, thanks to Gabe. And then between the
4 second and third, very little comment came back as far as
5 feedback of changes that were needed, except for our own
6 internal processes, which the audit brought forward as
7 well. I just want to put that out there.

8 CHAIRPERSON MULÉ: Thank you. Great.

9 Final item.

10 DEPUTY DIRECTOR LEVENSON: Our last item. Item
11 32, Agenda Item -- Committee Item K is a lengthy title.
12 It really has two parts to it. Discussion and Request for
13 Rulemaking Direction to Notice Revisions to the Proposed
14 Regulations for Long-Term Gas Violations for an Additional
15 15-Day Comment Period. And the second part, Request for
16 Direction on Whether to Initiate a Separate Rulemaking to
17 Include Additional Amendments to the Existing State
18 Minimum Standards for Gas Monitoring and Control at Active
19 Sites.

20 John Bell and Mike Wochnick along with our Legal
21 Office have been working on this. John is at a
22 conference, and Mike is going to make the presentation
23 today. First part of the presentation will focus on the
24 actual long-term gas violation rule making that is before
25 you and requesting some additional direction on that. And

1 then, secondly, we will raise the second issue about state
2 minimum standards and try to indicate to you what our
3 intent is on that.

4 CHAIRPERSON MULÉ: Thank you, Mike.

5 SUPERVISOR WOCHNICK: Thank you, Howard. Chair
6 Mulé, Board Member Marin, good afternoon. It's past the
7 noon hour now.

8 Brief history on the long-term gas violation
9 policy. That was put in place by the Board in the early
10 '90s, approximately 1994. Has been enforced about 20
11 times over the last ten years. However, that policy was
12 critiqued in the 2000 audit by the State Auditor. And in
13 response to that, the Board directed staff to incorporate
14 the policy into regulations and also to include specific
15 concepts that was developed by a couple of the Board
16 members, all of which those concepts are included in this
17 regulation package.

18 The formal 45-day comment period was initiated in
19 November of 2004 of last year. And we also had a public
20 hearing at the January P&E Committee. Four sets of
21 written comments were received on the regulations; two
22 from LEAs and two from operator representatives.
23 Subsequent to the January Committee meeting, staff met
24 with the commentators and discussed their comments and the
25 staff's proposed responses to those comments.

1 And a summary of those comments and the staff's
2 proposed responses are included in Attachment 1 to the
3 agenda. And the actual wording changes being proposed to
4 the regulations are being included as part of Attachment
5 2.

6 I do want to bring your attention to one part of
7 the regulations concerning Section D9, which is the one
8 that's related to facilities that had long-term gas
9 violations and are either expanding -- capacity expansion
10 or a property boundary expansion. That regulation
11 requires that an analysis of the impacts of that expansion
12 be evaluated.

13 Staff is proposing to put wording into the Final
14 Statement of Reasons to indicate that in most instances
15 staff would expect a CEQA analysis would satisfy that
16 requirement. So there would be no additional analysis.
17 Just that it would be included within CEQA. And have also
18 revised the wording in the regulations to clarify that the
19 LEA's only enforcing Waste Board standards, not any other
20 standards from any other agencies. The LEA just has to
21 determine that those other agencies have at least been
22 notified of the analysis. That could be as simple as
23 looking at the mailing list for the CEQA analysis, that
24 the Water Board, Air Board has been included on the
25 mailing list.

1 Therefore, for this regulation package, staff is
2 seeking the Board's direction to initiate an additional
3 15-day comment period for the proposed changes to the
4 long-term gas violation regulations. Do you have any --

5 CHAIRPERSON MULÉ: I have no questions.

6 Do you have any questions, Chair Marin?

7 Okay. We do have a speaker, and so I don't know
8 if we should take it now or let you finish, do both parts
9 of the presentation.

10 DEPUTY DIRECTOR LEVENSON: Whatever your pleasure
11 is.

12 CHAIRPERSON MULÉ: Why don't you finish your
13 presentation.

14 SUPERVISOR WOCHNICK: The second part, the
15 related item, staff has received informal comments during
16 this regulation process from some LEAs and also the EAC
17 requesting the Board consider revising the landfill gas
18 monitoring state minimum standards so that the more
19 comprehensive standards that apply to closed disposal
20 sites would also apply to active disposal sites. And that
21 recommendation also was included in the recently completed
22 landfill compliance study by GeoSyntec, Incorporated,
23 under the Board's direction.

24 During discussions on the landfill compliance
25 study, staff did indicate that we were going to

1 investigate incorporating -- possibly incorporating those
2 changes within the long-term gas violation regulation
3 package. However, based on our investigation, we've
4 determined that's beyond the scope of the long-term gas
5 violation regulation. It's beyond that scope. So a
6 separate rule making will be necessary for that.

7 So, therefore, unless the Board objects, staff
8 intends to initiate a separate -- start with an informal
9 rule making process, start with workshops, et cetera,
10 regarding the landfill gas state minimum standards for
11 active sites and look into this in more detail. That
12 concludes my presentation this afternoon. I'll be happy
13 to answer any questions.

14 CHAIRPERSON MULÉ: Thank you very much.

15 DEPUTY DIRECTOR LEVENSON: On that latter issue,
16 what we would do is have the informal workshops first to
17 explore that issue and then come back to you seeking more
18 formal direction as to whether to initiate a 45-day
19 comment period.

20 CHAIRPERSON MULÉ: Thank you, Howard.

21 And we do have one speaker, Larry Sweetzer.
22 Larry.

23 MR. SWEETZER: I will be brief. Larry Sweetzer,
24 changing hats this time, on behalf of the Rural Counties
25 Environmental Services Joint Powers Authority.

1 We've been closely involved with staff in these
2 regulations and appreciate all their work. And also want
3 to tell you that we believe congratulations are in order
4 for Tehama County who was sort of in the lead, if we will,
5 on implementing these regulations before they were
6 actually approved. And I just got the report a couple
7 days ago that their gas levels are below the limit. So
8 thank everybody for that.

9 As I said, we've worked with staff. We do have
10 the two concerns that they mentioned about using CEQA
11 where it was appropriate, because in many cases we have to
12 do CEQA anyway, so why do another report? We fully
13 support that.

14 Also as far as the LEAs' authority when they're
15 looking at these reports that are going to multi agencies
16 that we are looking at the Waste Board requirements and
17 not the other issues for other agencies. So we understand
18 from staff that those will be in the Final Statement of
19 Reasons. We haven't seen a copy of that yet. And we're
20 trusting staff will do that, and we're in agreement with
21 going with that approach.

22 Also the new issue with the closed sites, we
23 fully support a separate rule making. That's a very
24 difficult issue that for landfills 5, 10, 20, 30, 40, 50
25 years ago and how you implement today's standards on

1 something that far back. That does require a lot of
2 discussion, and we look forward to being part of the
3 informal process.

4 CHAIRPERSON MULÉ: Larry, on the active sites,
5 the separate rule making for active sites -- I don't want
6 to put you on the spot. But do you know what your
7 position might be on that? And, again, you don't have to
8 answer it. But I'm just -- again, while, Howard, you've
9 clarified that we're not going to initiate the process.
10 We're just going to hold workshops to determine whether or
11 not we want to initiate that process.

12 DEPUTY DIRECTOR LEVENSON: Correct. And we would
13 return to you with a formal request to initiate the formal
14 rule making.

15 CHAIRPERSON MULÉ: And my question for you,
16 Howard -- and we can discuss this in the workshops when we
17 hold them. But what are other states doing? You know,
18 I'd be interested in knowing what other states are doing
19 as far as requirements for active gas monitoring systems
20 for active landfills.

21 DEPUTY DIRECTOR LEVENSON: We have done a little
22 bit of research on that, if you want to talk about it
23 today, we can, or if you'd like to defer, whatever your
24 pleasure is.

25 CHAIRPERSON MULÉ: We can defer it to the

1 workshop so that everyone can hear, you know, what other
2 states are doing. Because that usually seems to be the
3 question, why are we doing this, you know, if no one else
4 is. But if we know there's other states that are, for
5 once, ahead of California, I would be interested in
6 knowing that.

7 DEPUTY DIRECTOR LEVENSON: Very good. I just
8 want to clarify that we can get the Committee Chair's
9 direction to go ahead and proceed for the 15-day notice,
10 rather than taking this to the Board, which we've done in
11 the past.

12 CHAIRPERSON MULÉ: Right. That's fine.

13 DEPUTY DIRECTOR LEVENSON: Thank you very much.

14 CHAIRPERSON MULÉ: Thank you. Okay. Are there
15 any other people in the audience that would like to speak?

16 Hearing none, any other comments from the staff,
17 Board Chair Marin?

18 COMMITTEE MEMBER MARIN: That was very good.

19 CHAIRPERSON MULÉ: With that, we are adjourned.

20 (Thereupon the California Integrated Waste
21 Management Board, Board of Administration
22 Permitting and Enforcement Committee
23 adjourned at 12:17 p.m.)

24

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
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9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 18th day of March, 2005.

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